

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
PLAINTIFF,)	CASE NO. 2:14-CR-127
)	
vs.)	APRIL 11, 2016
)	
ROBERT B. LEDBETTER, ET AL.,)	9:00 A.M.
)	
DEFENDANTS.)	VOLUME 5
)	

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

BEFORE THE HONORABLE ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE, and a jury
COLUMBUS, OHIO

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1 MONDAY MORNING SESSION

2 APRIL 11, 2016

3 - - -

4 (Thereupon, the following proceeding was held in open court
5 with all counsel and defendants present.)

6 (Jury in at 9:07 a.m.)

7 THE COURT: Ms. Clark, would you please call the case.

8 THE DEPUTY CLERK: Criminal case CR2-14-127, United
9 States of America versus Robert B. Ledbetter, Christopher A.
10 Harris, Rashad Liston, Deounte Ussury, and Clifford Robinson.

11 THE COURT: Good morning, ladies and gentlemen, and
12 welcome back to the United States District Court for the
13 Southern District of Ohio. This morning we are going to begin
14 with the opening statements. You will first hear from counsel
15 for the government. Mr. Devillers is going to give opening.
16 And then you may but do not have to hear from counsel for the
17 defendants. They have the option of not giving an opening
18 statement, if they choose not to do so, because they have no
19 burden in this case.

20 You will recall, ladies and gentlemen, that opening
21 statements are not evidence but rather the lawyer's view of
22 what the evidence will show.

23 Mr. Devillers, are you ready to proceed?

24 MR. DEVILLERS: I am, Your Honor.

25 THE COURT: Please proceed.

1 MR. DEVILLERS: Thank you.

2 Good morning. We have heard already quite a bit in voir
3 dire and in the judge's instructions about an enterprise.
4 Enterprise is a legal definition that the judge will instruct
5 you on later on. I think the common definition, the commonly
6 known enterprise is some sort of business enterprise or
7 government entity or charitable organization. The enterprise
8 you're going to hear about today and the next three months is
9 not akin to that. This enterprise is more akin to a black hole
10 that devours everything and anything in its path, including
11 lives. That's the enterprise you're going to hear about.

12 This enterprise has no legitimate dogma or philosophy.
13 It has no noble cause. It just exists. It exists for the
14 members of its enterprise. It devours what it craves, and it
15 gets more powerful as it devours what it craves. This
16 enterprise craves vengeance.

17 I want to introduce you to some of the victims of that
18 vengeance. Alan Johnson was a victim of its vengeance.
19 Stephen Austin was a victim of its vengeance. Sanikqua Hester
20 was a victim of its vengeance.

21 It also craved self-preservation. It wanted to continue
22 to exist, and it destroyed anything that threatened that.
23 Crystal Fyffe threatened its existence and it destroyed her.
24 It killed her. Taron Colvin and Chad Ayers, they threatened
25 its existence so they killed them.

1 What this enterprise, what this black hole craved most
2 was wealth. In its universe, wealth comes in the forms of
3 money, drugs, and firearms. And it would destroy anything in
4 the way from money, drugs, and firearms. Let me introduce you
5 to some of those people that were in its way. Marschell
6 Brumfield was in the way, so it destroyed him, it killed him,
7 as it did with Donathan Moon, Rodriccos Williams, Dante Hill,
8 Tyrell Davis, Anthony Hackney, Marcus Peters.

9 As it devoured, it became more powerful and more
10 powerful until it finally collapsed on its own weight, the
11 weight of the crimes that it committed and the weight of the
12 evidence it left in its wake.

13 But it ends. It ends today. Today is the beginning of
14 the end. Because today and for the next three months, ladies
15 and gentlemen, you're going to be able to see the wake of
16 evidence. This black hole, this enterprise, is known as the
17 Short North Posse. And specifically in this case, you're going
18 to hear about the epicenter of the Short North Posse, a faction
19 of the Short North Posse called Homo or Homicide Squad. Yes,
20 they named themselves Homo and Homicide Squad. It did so for a
21 reason, and you're going to hear that reason.

22 Now, the SNP, Short North Posse, derives its power from
23 numbers. With numbers, you can overwhelm. With numbers, you
24 can share resources. With numbers, you can terrorize your
25 enemies. With numbers, you can keep potential threats in line.

1 And that's what it did.

2 Today we're going to ask you to consider a law that
3 seeks to neutralize numbers. We're going to ask you to
4 consider a law that uses the power of numbers against itself.
5 That law is called racketeering, specifically conspiracy to
6 commit racketeering. You're not going to merely hear about an
7 individual defendant with an individual crime. You're going to
8 hear about all of the defendants, all of its associates, all of
9 its crimes and about all of its victims, all of the impact that
10 this enterprise, this black hole, this Short North Posse, had
11 on our city, on our community.

12 Now, many of the victims that you're going to hear
13 about -- and we just talked about the murder victims. All of
14 those individuals you just saw are dead. They were killed by
15 these men behind me and their associates. But for every one of
16 them, there are three or four people that survived. There are
17 three or four people that were terrorized, that were robbed,
18 that were shot. And you're going to hear about all of them.

19 Now, these victims, some of them, they were in the game,
20 if you will. Some of them were actually in the gang itself.
21 Some of them were just unintended targets, collateral damage of
22 this black hole. But all were human and all had family and
23 friends that cared about them, that loved them, and all deserve
24 justice.

25 The vast majority of the murders that we just talked

1 about, the victims you just saw, were killed by the men behind
2 me. Some others were killed by their associates. You're going
3 to hear those men, a lot of them, come in and testify.

4 All these crimes you're going to hear about, all these
5 atrocities that you're going to hear about, the fact that they
6 took place I don't think it's going to be in dispute. It's our
7 burden of proof. We have to prove everything, not just who did
8 it, but that crimes were committed. I think in the end, that
9 they happened isn't going to be in dispute. Even the motive
10 behind some of these things aren't going to be in dispute.
11 What is going to be in dispute is who did it and, more
12 accurately, what did it. And that "what" is the Short North
13 Posse.

14 Let's talk a little about the Short North Posse. The
15 Short North Posse is basically a group of individuals working
16 together to commit crimes over an extended period of time.
17 They happened to be Crips, for the most part, and they're from
18 the Short North area of Columbus, Ohio, only about three or
19 four miles south of us.

20 This, for the record, is marked as Government's Exhibit
21 1152-1. It's a map of the Short North area of Columbus, east
22 of High Street near campus, west of 71, basically between
23 Twelfth Avenue, East Twelfth Avenue, and East Fifth Avenue.

24 THE COURT: Ladies and gentlemen, can you see?

25 Mr. Devillers, you can go as close as you'd like.

1 MR. DEVILLERS: The epicenter of the Short North, and
2 particularly the Short North Posse, this gang, is Fourth and
3 Eighth; Fourth and Eighth. In that location is a place called
4 the D&J Carryout. You're going to see the walls in this area
5 covered with graffiti representing the Short North, the Short
6 North Posse, the Crips.

7 Not everyone from the Short North, who lives in the
8 Short North, were part of the Short North Posse. The vast
9 majority were not. To be in this enterprise, there's one
10 common thing. You've got to be a criminal. You've got to
11 commit crimes. The vast majority of the people in the Short
12 North aren't criminals. They're the victims of the Short North
13 Posse. They had to live with them. And you're going to hear
14 from some of them.

15 Now, the Short North Posse has a long history. You're
16 going to hear about Crips. The Crips kind of started in the
17 '80s and '90s. It's this national gang. But I don't want you
18 to think that there's some sort of connection. The evidence is
19 going to show there is no connection between the Crips in
20 Columbus and the Crips in LA, or Chicago, or New York.

21 It's a culture that came to the city, like most cities
22 in the United States, in the late '80s and early '90s: Crips,
23 Bloods, Folks, Gangster Disciples, Latin Kings. It came here,
24 and there were sets of Crips. The Short North was one of them.
25 There are other sets, locations, within Columbus.

1 Now, the Short North Posse was the first generation of
2 these Crips that were arrested back in the '90s. Some of them
3 are related to the current members. They were taken down and
4 they were in prison. Many of them are still in prison. They
5 were called the Short North Posse. Fast forward to 2005; new
6 generation has emerged. I submit to you the evidence will show
7 a more violent generation. A lot of them don't like being
8 called the Short North Posse. They think that's the first
9 generation. A lot of them do like being called the Short North
10 Posse. A lot of them like being called Short North or just the
11 Short, or North Town or North Hood, N-Hood. But they're Crips.
12 They like wearing blue. They like throwing C's around. And
13 that's what keeps them bound. That's the culture that keeps
14 them bound.

15 It's not like the Crips from the '90s and '80s. They
16 don't just go around killing Bloods because Bloods and Crips
17 hate each other. It still exists, to a large extent, but it's
18 evolved. And the Short North Posse has evolved into a more
19 organized crime. They don't care so much about what color you
20 wear. They care about the bottom dollar. They care about
21 protecting their neighborhood from people coming in to try to
22 sell drugs, their drugs, or to hone in on their territory.
23 They tried to expand their territory. They rob and kill and
24 murder rival gangs and rival drug dealers. It's what they do.

25 Now, these Crips from the Short North, they're widely

1 known as the Short North Posse. The cops all know them as the
2 Short North Posse. You'll hear evidence of that; the community
3 does. But they, in the end, are Crips. They have signs. One
4 of their signs is four. You'll see pictures, you'll see
5 witnesses testify, throwing the fours. Fourth Street. That's
6 what that's about.

7 There's other signs and indicators. You'll see
8 photographs. There's tattoos. A lot of the guys behind me
9 have Short North tattooed on them. They have Crips tattooed on
10 them. They have Homo, or homicide, tattooed on them. A lot of
11 people coming in here are going to have Cut Throat - that's
12 another group you're going to hear about - tattooed on them.
13 You're going to see graffiti. You'll see clothes with this
14 stuff on it. It keeps them bound. It intimidates their
15 victims. It intimidates their rivals.

16 Now, we talked about the first generation of Short North
17 Posse was indicted on drug conspiracy. And something happened
18 in 2012, 2011. People began to talk. There's a reason for
19 that, because there's a code in the Short North, and that is
20 you don't talk. There is a code that snitches get stitches.
21 These murders you all heard about, virtually every one of them
22 was a cold case that sat around for years, decades. No one
23 talked. It's going to be abundantly clear to you in the next
24 few days why. Because if you talk, if you snitch, you die.

25 Now, there's no initiation really to be in the Short

1 North Posse. You got to put in your work, don't get me wrong.
2 You're expected to represent. You're expected to bond people
3 out when they get arrested. You're expected to put money on
4 people's books when they're in prison or in the jail. You're
5 expected to fight enemies and rivals. But the number one thing
6 you're expected to do no matter how high you are on the totem
7 pole or how low you are on the totem pole, is to enforce the
8 no-snitching code. If someone is cooperating, if someone is
9 testifying, if someone is working the police, your job is to
10 kill that person.

11 A couple of people that were part of the Short North
12 Posse, part of Homicide Squad, an associate of Homicide Squad
13 around 2011, 2012, you're going to hear came forward. There
14 was a reason for it. They didn't do it out of the kindness of
15 their hearts.

16 These four men -- Clifford Robinson is a different
17 story. The four men behind us were locked up on other charges.
18 You're going to hear about those charges. These two men were
19 caught doing very serious things. They were caught doing
20 murders. They were shot themselves. They came forward and
21 started to talk about Homicide Squad, about Cut Throat, about
22 Short North Posse, about what happened from 2005 on.

23 A task force was made up based on that information, an
24 FBI task force. That FBI task force of course included the
25 FBI, ATF, DEA, and, most importantly, CPD, Columbus Police

1 Department, the organization that's been fighting and
2 investigating the Short North Posse for decades.

3 But this was going to be a different investigation.
4 This was going to be a different endeavor. And that endeavor
5 was to concentrate on the violent aspect of the Short North
6 Posse. We've arrested drug dealers for years and nothing
7 happened. But bodies piled up, victims, murders. And that's
8 what this investigation, what this task force was about.

9 Yes, drugs are an integral part of this group, of this
10 enterprise. But these two groups you're going to hear about,
11 these two subgroups of Short North Posse - Cut Throat and
12 Homicide Squad - that was only part of it.

13 You're going to hear about a man by the name of Jermonte
14 Fletcher. In 2012, Jermonte Fletcher was the most highest,
15 most respected member of the Short North Posse that wasn't
16 locked up, wasn't in prison; was out. He was dangerous. And
17 this task force went after him and investigated him and
18 indicted him. You're going to hear about that indictment,
19 along with some other people, for mostly drug-related and
20 violence-related crimes. He was indicted. There was a warrant
21 out for his arrest. He was on the lam, if you will, for almost
22 a year. He made it clear he was going to shoot it out. He was
23 not going to be taken alive. And he was right. When the
24 marshals finally found out where he was, he shot it out. He
25 shot those marshals. He lost. He was killed.

1 When that indictment came down on Jermonte Fletcher,
2 there was a bit of a lull in the Short North. There was an
3 ability for people to come forward, people to cooperate.

4 Now, that didn't come at a price. You're going to
5 hear about deals, deals that we gave to people -- drug dealers,
6 murderers -- to cooperate, people that would have gone to
7 prison for a lot longer if they didn't come in here and
8 testify. You may not like these deals, but all we do is ask
9 you to listen to them, listen to these people. Still other
10 people were brought into a grand jury; didn't know why often.
11 They testified. Some did do it because they had nothing over
12 their heads. They thought it was the right thing to do. They
13 were promised protection. They were promised anything from the
14 Witness Protection Program you're going to hear about, the
15 programs that the FBI have, and the CPD, about protecting them
16 both before and after this trial.

17 What the task force learned, and what you're going to
18 learn, ladies and gentlemen, is that in 2005, a group exists
19 within the Short North Posse called Cut Throat or Cut Throat
20 Committee. And this group consisted of mostly members of --
21 that are Crips from the Short North that specialized in
22 robberies and home invasions. They would rob rival gang
23 members, rival drug dealers, take the money and bring it back
24 to the Short North.

25 And in the Short North, there are larger drug dealers

1 within the Short North Posse. You're going to hear about some
2 of them. One of those is Brandon Ledbetter. He had money. He
3 had drugs. He had connections outside of the Short North.
4 You're going to hear about a Tabib Broomfield. You're going to
5 hear about a Lance Green. You're going to hear from a Jonathan
6 Ransom. A lot of these guys didn't like getting their hands
7 dirty. But they knew where the drugs were. They knew where
8 the money was. They knew where the easy targets were. They
9 sent Cut Throat, initially, at them, members of the Cut Throat
10 Committee.

11 You're going to hear about Lance Green, a guy named
12 Jiggs. Tommy Coates goes about Egg -- Eag. Tysin Gordon goes
13 by Sleep; Freddie Johnson, Freeze Pop; Allen Wright, Al-Nuts;
14 Richard Willis, Le-Le; Anthony Martin, Ant Man; Mark Norton,
15 Sharp, and Dennis White, Black Den.

16 And this group kind of came together. They had Cut
17 Throat tattoos. They have Cut Throat graffiti. They have Cut
18 Throat clothes. They wanted to intimidate their rivals. They
19 wanted to be feared. And they were. They committed a number
20 of murders. You're going to hear about some of those murders.

21 Now, this enterprise is the Short North Posse and its
22 associates. I say that because people that are part of this
23 enterprise, people committing these crimes with and in
24 conjunction with the Short North Posse aren't all from the
25 Short North.

1 Lance Green and Le-Le -- Jiggs and Le-Le, they're
2 originally from Poindexter, which is another area of Columbus,
3 which is really Blood territory. They had friends, they had
4 family in the Short, and they began to associate with the Short
5 North and they began to commit crimes with the Short North
6 Posse, thereby, part of the enterprise.

7 Deounte Ussury goes by D Frog. He was originally in a
8 gang called 218. In fact, he's got it tattooed on his arm.
9 That gang was wiped out by an indictment in early 2000s, late
10 '90s. He had no one else. He started the same thing,
11 associating with the Short North. He started to commit crimes
12 with the Short North. He started to sell drugs with the Short
13 North until he became part of the enterprise. He became part
14 of the Homicide Squad.

15 Now, during this time period, there was a war going on
16 in the Short North, 2005 to around almost 2007. That war was
17 going on with a gang called D-Block, which were Bloods but it
18 ran deeper than that. They competed over drugs, territory,
19 weapons. D-Block was accused of, and rightfully so, killing
20 some of the members of Short North Posse. And there was an
21 ongoing battle - I mean, a gun battle - going on between the
22 two for two years. D-Block killed an individual by the name of
23 Tiberius Patterson, who was a Short North Posse member;
24 respected member.

25 T Pat, Tyrell Patterson, his brother, was part of the

1 Short North Posse, as were a number of these individuals,
2 including the Cut Throat people. They wanted revenge. And
3 they got it, but not after losing some of their own.

4 You're going to hear from Allen Wright. Allen Wright is
5 Cut Throat Committee, Crip, Short North through and through.

6 This is Allen Wright.

7 He was indicted along with the defendants behind me.
8 There were 20 people in the indictment, this indictment. Now,
9 clearly it's pretty crowded in here already. There's five
10 individuals in here. Getting 20 in is not realistic. But
11 Allen Wright agreed eventually to testify against these
12 individuals and the other individuals that are going to come to
13 trial.

14 This case is divided up into three trials. This is the
15 first one. This is primarily Homicide Squad. The next trial
16 will be primarily Cut Throat. The next trial will be primarily
17 the remainder of Short North Posse members who were committing
18 murders. Allen Wright has agreed to testify against all of
19 them. He is a contract killer. He is responsible for at least
20 two murders. He killed a guy by the name of Michael Teague on
21 the orders of Lance Green. Lance Green put a \$10,000 contract
22 on him. He was a rival drug dealer. He killed him. He's
23 going to come in and tell you about it.

24 During this battle with D-Block, he fought it like a
25 good soldier. He shot at members of D-Block. There's one

1 incident you're going to hear about where the police are
2 driving and they see a gun battle going between two cars.
3 Lance Green, Tysin Gordon and Allen Wright. Allen Wright has
4 got a chopper. A chopper is an AK-47, an assault rifle. These
5 cars are shooting at each other. The police can't believe what
6 they're seeing. They chase the car down. Allen Wright throws
7 the gun and runs. They end up catching Lance Green and Michael
8 Teague. They're trying to kill a guy by the name of Ricky
9 Darthard who is one of the D-Block guys.

10 Later on, Allen Wright is going about his busy day to go
11 and rob somebody with some other Short North Posse guys, and he
12 sees Ricky Darthard on Lilley Avenue on a porch. He gets
13 information, calls Lance Green, Tommy Coates, one of the Cut
14 Throat guys. He's busy going to do his robbery. He tells them
15 where she is -- where he is, Ricky Darthard. They go there;
16 AK-47s. Not that one. The police have that one. They have
17 another AK-47. By the way, in this case, if you think you're
18 going to see a bunch of guns and drugs and bulletproof vests,
19 you came to the right spot because you're going to see arsenals
20 of it. They lose a gun, they destroy one gun, they get one
21 taken, they get eight more.

22 They went that night to that house on Lilley Avenue and
23 shot up the porch, shot a bunch of people, and ended up killing
24 Sanikqua Hester, shot her in the head; collateral damage. She
25 wasn't the intended target. She's dead because of this black

1 hole, this gang's vengeance. Darthard left a few minutes
2 before. They didn't care. They just shot up the house. And
3 Allen Wright, he wasn't there during the shooting, but he's
4 just as guilty as all of them. He pled guilty to that murder.
5 He conspired with these people. He knew what they were going
6 to do, and he told them to go there. He told them where he
7 was.

8 Now, he is a trigger man. He killed Michael Teague. He
9 shot a lot of other people you're going to hear about. But
10 he's just as guilty as the trigger man. That's what this case
11 is about. This is a group. This is a conspiracy. And the
12 judge is going to instruct you on conspiracy.

13 So D-Block is an area kind of really about three miles
14 east, northeast of the Short North. And again, they're Bloods.
15 And this battle keeps going on. On May 1st, 2005, Tyrun Hill,
16 a Short North Posse guy, an OG, very respected, a voice of
17 reason, actually, within the Short North, it's his birthday.
18 Celebrating his birthday, they run into some clubs. They run
19 into some D-Block guys. Some word is exchanged not by him.
20 Later on that night, he's at a BP filling up with gas. There
21 is a bunch of Short North Posse guys, a bunch of D-Block guys.
22 There is a shoot-out. Lots of people shooting. And he's
23 caught between them, and he's shot and killed.

24 The battle continues. The war continues. It actually
25 escalates to some point.

1 Mr. Ussury and Mr. Harris are involved in this battle.
2 At the time, so is Mr. Liston, Bucc. He was a juvenile at the
3 time, a young man. Bucc. By the way, Bucc is B-U-C-C, not
4 B-U-C-K, because C-K stands for Crip killer. It's a Blood
5 term. So you're going to see his name, other people's named
6 spelled -- truck would be spelled T-R-U-C-C, not C-K; again,
7 part of the Crip culture. They're involved in this. They're
8 trying to kill Darthard. They're trying to kill a person that
9 goes by the name of Antwan Jenkins -- Shane Antwan Jenkins --
10 who is thought to be the person who had killed Tiberius
11 Patterson earlier.

12 You're going to hear about these guys going after them.
13 You're going to hear about them shooting. You're going to hear
14 about them leaving shell casings during these shootings. We'll
15 talk about that later. That becomes important because the
16 shell casings -- the gun used to shoot at a lot of these
17 D-Block guys left the shell casings there. The gun was found
18 later on at a trap house - we'll talk about that, too - with
19 Chris Harris, Tommy Coates. You're going to hear a ballistics
20 expert come in and testify that within a reasonable degree of
21 ballistics certainty that gun shot those shell casings.

22 Later in 2006, there was actually a legitimate attempt
23 to deescalate the battle, the war going on with D-Block. Now,
24 there's a reason to get along with certain gangs, especially
25 D-Block. D-Block had drug connections. Mr. Ledbetter utilized

1 those. He liked those drug connections. He was making a lot
2 of money, and he continued to make money.

3 So there was an attempt to have a good old-fashioned
4 fistfight. Joyce Avenue. There is a park off of Joyce Avenue,
5 and these guys got together and decided, all right, let's fight
6 this out. A guy by the name of Timothy Spruiel, a guy by the
7 name of Tyrell Davis - Tyrell Davis was an associate of Short
8 North - they were going to fight. That particular fight was
9 over a chain that was stolen by one of the D-Block guys, by
10 Tommy Coates.

11 So there's going to be a fight, and they all came. They
12 all brought guns. It didn't work out because, as soon as
13 Timothy Spruiel was getting the better of Tyrell Davis, Freddie
14 Freeze Pop Johnson, Cut Throat, Short North Posse, pulls out
15 his gun and shoots him in the back. Then all hell breaks
16 loose. The Bloods, D-Blocks, they pull out their guns, their
17 choppers, their AK-47s, the Short North guys pull out all their
18 guns and it's on. There are over one hundred shell casings
19 found in that park that night.

20 Yeah, this happened here in Columbus. This happened
21 here. Four people are shot in the end. No one dies. People
22 are seriously wounded, but no one dies. Those hundred shell
23 casings don't even take into account revolvers.

24 Chris Harris is there, who goes by O-Dog; leaves his van
25 there, runs. Deounte Ussury is there, D Frog. He is a

1 shooter. He leaves his gun. It's one of the rare cases you're
2 going to see -- occasions in this case where they do leave
3 their gun. And even rarer still there's actually still a print
4 on the gun. You're going to hear a little evidence about
5 fingerprints in a while. Prints on the gun. Deounte Ussury's
6 prints. The shell casings from that gun match the shell
7 casings, within a reasonable degree of ballistics certainty
8 found, at the scene.

9 Tyrell Patterson is there. Freddie Johnson is there.
10 Tony Jones, another person who would eventually be part of
11 Homicide Squad, was there. They all fired their guns.

12 Now, this kind is the beginning of the end of the battle
13 between the D-Block and Short North Posse. I think they
14 started to have enough. And in December of 2006, Tyrell
15 Patterson, T Pat, who was very angry at D-Block, he gets shot
16 in the head. He lives, but it slows him down too. In fact, he
17 gets arrested on some other charges and goes to prison December
18 of 2006.

19 The battle starts to end. There's also a takedown of
20 some of the members of the Short North Posse. Specifically,
21 the guys in Cut Throat Committee - Tommy Coates, Ricco May,
22 Troy Locke, Jonathan Ransom, Kenny Slaughter, Travis McGinnis -
23 they are locked up. Eventually so is Lance Green and Tysin
24 Gordon for at least a short period of time. Ant Man, a member
25 of Cut Throat, he's killed. Le-Le, Richard Willis, he's killed

1 too. There's a vacuum in the Short North in December of 2006.
2 There's going to be a group that fills that vacuum, that vacuum
3 of home invasions and murders. They're going to make Cut
4 Throat look like Boy Scouts.

5 Now, during this time in 2005, 2006, Mr. Ledbetter,
6 Mr. Liston, Mr. Ussury, and Mr. Harris, they're younger.
7 Mr. Ussury and Mr. Ledbetter, Mr. Harris, they're adults.
8 Bucc, Mr. Liston, he is a juvenile. They're getting their sea
9 legs. They're selling drugs. They're committing robberies.
10 You're going to hear about a guy by the name of Forty, Troy
11 Patterson, another young man; a guy by the name of Elijah
12 Ledbetter, Brandon's younger brother. They commit robberies on
13 the street mostly at that time. They would graduate. They'd
14 play the knock-out game. They go up to somebody who happened
15 to wander into the Short North, punch them once as hard as they
16 could and knock them out and rob them.

17 Allen Wright, a person that you heard about - Al-Nuts -
18 he is a very close friend of these guys, especially Mr. Harris
19 and Elijah Ledbetter. They were close. They did everything
20 together. They did robberies together. They sold drugs
21 together.

22 You're going to hear about a trap house. We talked
23 about trap houses a little bit. A trap house is a house that a
24 lot of these guys have within the Short North. They don't live
25 there. It's where they sell their drugs. It's where they keep

1 their guns. It's where sometimes they keep the money. It's
2 sometimes where people go. They are fortresses. They're
3 filled with weapons. They don't last too long because the
4 police usually find out about them and raid them.

5 In March of 2006, Tommy Coates, Robert Liston, who is
6 actually called Big RJ, as opposed to Little RJ, he is Bucc,
7 Rashad Liston's brother, are in this house. O-Dog, Chris
8 Harris, is in the house. And they hit it. INTAC hits the
9 house. It is at 338 North Fifth Street, right in the heart of
10 the Short North. They find crack. They find arsenal weapons,
11 AK-47s, assault rifles, revolvers, money. Chris Harris is in
12 that house. They find almost \$2,000 in cash in his pocket.

13 By the way, none of these guys have jobs. Well, they do
14 have a job. They're criminals. They make their money by
15 selling drugs and robbing people. This is what they do for a
16 living. This is their vocation. There isn't like a pretend
17 job out there. They don't even bother. They live under the
18 radar. They live off the grid. They get people to put --
19 girlfriends, family members, buy cars for them, put it in their
20 name; sometimes phones. Except for Brandon Ledbetter. Brandon
21 doesn't live outside the grid. Brandon worked hard mostly at
22 selling drugs and being a gangbanger, but he worked hard. And
23 he had a legitimate job. He had a bank account. And
24 eventually you're going to hear about why.

25 Another house with Mr. Ussury in it, T Pat; Mr. Ussury's

1 trap house, again, not long after that in August of 2006. This
2 time on North Sixth Street, again, in the heart of the Short.
3 Another raid inside the house of Mr. Ussury; .257 revolvers,
4 .45 caliber semiautomatic, a couple bulletproof vests, crack,
5 scale. Come on.

6 And the house that Mr. Harris was in, by the way, there
7 was a .45 caliber semiautomatic taken out of it. That was the
8 gun that was used in the other shootings and attempted murders
9 against D-Block.

10 Guns are a big part of this. Right after this, not
11 long, a couple months after Mr. Ussury is arrested in that
12 house, he is caught with another gun in December.

13 Shootings continue in that 2006 era before Homicide
14 Squad really comes into existence. They're not afraid to shoot
15 at cops. There was one incident where O-Dog, Chris Harris,
16 shot at the police. His brother was being arrested. He didn't
17 like it, so he shoots at the police.

18 D-Block wasn't their only enemy; other sets of Bloods,
19 Deuce Deuce Bloods kind of off of Livingston. You're going to
20 here about an incident at Latino Fest just right out this
21 window. Fights between the Bloods, Deuce Deuce, and SNP. It
22 starts off with kind of people throwing rocks and bottles at
23 each other. It kind of calms down. Police get in between it.
24 Terrence Tanks, an associate of Deuce Deuce, he gets shot in
25 the head. Tony Jones is going to tell you about that. A guy

1 by the name of The Evil D who you're going to hear about in a
2 little bit, DeShawn Smith, takes a gun to Tommy Coates and
3 shoots him in the head. He lives. He's not the same, but he
4 lives.

5 It continues.

6 Now, some of the people that Elijah Ledbetter and Chris
7 Harris and Al-Nuts are robbing are other drug dealers. In
8 fact, the vast majority of people being robbed in this case
9 are, quite frankly, other drug dealers, soft targets who aren't
10 going to report that they were robbed. If I get two kilos of
11 cocaine stolen from me, I don't call the police and say, hey,
12 I'm missing two kilos of cocaine.

13 The reports you're going to hear about where police were
14 called to the scene are because somebody was shot, or somebody
15 was killed, or somebody was raped or kidnapped or abducted.
16 Still others were victims that were completely innocent walking
17 down the street that would likely report what happened to them.
18 They're the ones you're going to hear from the police about.

19 On that stand are going to be ex members or members of
20 the Short North Posse. I'm going to tell you about the other
21 ones as well.

22 All right. Elijah Ledbetter robs a person by the name
23 the Alan Johnson. Alan Johnson is kind of an associate of
24 Short North. But he's also kind of sloppy, gets arrested a few
25 times. O-Dog - Chris Harris - and Al-Nuts robbed him before as

1 well. But Elijah is accused of robbing him. He has got to do
2 something about it; can't let that stand. So he shoots and
3 kills Elijah Ledbetter. You think snitching is a no-no?
4 Killing a member of the Short North Posse is a big no-no, from
5 the Short North Posse. So everyone is looking for Elijah
6 Ledbetter [sic]. Everyone from the Short North - Tommy Coates,
7 Brandon Ledbetter, Tony Jones, Chris Harris, a guy by the name
8 of Marcus Peters, Travis McGinnis - they're all looking for him
9 to kill him. The cops are looking for him, too, to arrest him.

10 Who's going to get to him first? He's hiding.

11 The cops don't get to him first. The Short North Posse
12 gets to him first.

13 Tony Jones is at a house of a person by the name of
14 China Hester. China is actually Sanikqua Hester's sister;
15 associates with Short North Posse guys, Cut Throat, Homicide
16 Squad. And he finds out from her talking on the phone that
17 she's going to go to dinner with Alan Johnson. He's living.
18 He killed Elijah. She said, oh, I don't want to get involved
19 in that. So he and other people, he starts talking. He tells
20 Brandon Ledbetter. He tells a number of other people. Brandon
21 Ledbetter has got \$10,000 on Alan Johnson's head. Remember,
22 Brandon's got money. He is a drug dealer, a pretty good one.
23 So he's got ten grand on his head.

24 Elijah is killed on April 4th, 2006. Less than two
25 weeks later on April 16th, 2006, Tony gets with Brandon.

1 Brandon is with a guy by the name of Marcus Peters, another
2 Short North Posse guy. They get into Brandon's van. They meet
3 up with Chris Harris - O-Dog - outside the house of China
4 Hester. They break into the house, kick the door in.

5 Tony is in the van. Elijah is riddled -- rather,
6 Anthony Johnson [sic] is riddled with bullets. He's on the
7 floor. China is on the bed. We're not certain which one did
8 it or if a couple fired. The shell casings are all from one
9 gun. It could have been a revolver fired; it could have been a
10 through and through, but at least one person fired. We don't
11 even know if Brandon went inside the house. He may have been
12 at the door. This is all coming from Tony Jones.

13 But you're going to hear what he has to say. And he's
14 guilty of that murder. He's just as guilty as the rest of them
15 because he knew what was going to happen.

16 China lives. She's not shot.

17 That is the beginning of Homicide Squad. That event
18 gets it rolling. This is when it begins. And from this time,
19 from this murder and the next -- almost a little more than two
20 years, nine other people, nine other people will be dead, will
21 be killed because of the men behind me or orders from the men
22 behind me. And it didn't stop there either.

23 Race. You heard about it from the defense in voir dire.
24 We're not blind to the fact that there are four white guys
25 sitting at this table prosecuting five African-American men.

1 But this case isn't about race. It's about justice. This
2 isn't my case. It isn't anybody's case except yours. You
3 weren't picked out of a hat. You were picked for a reason.
4 You were picked because you represent this city. You represent
5 our city. You represent our community. And we picked you
6 because we know you're the perfect jury for this case. We know
7 you're not going to make it about race. You're going to make
8 it about justice. And this is the first and last time you're
9 going to hear me talk about this. Own this case. It's yours.
10 It is your case. Own it. Own it here in the courtroom and own
11 it in that deliberation room. We know you will.

12 Homicide Squad. Let's talk about some of them. It
13 actually comes from a song, a rap song called *Homicide for The*
14 *Cash*. It's where it derives from. Yep, that's really what
15 they call themselves: Homicide for The Cash; Homo or Homicide
16 Squad. Mr. Liston, he's got Homicide For The Cash tattooed on
17 his chest. That's what they did. They got paid to kill
18 people. They got paid to rob people and kill people.

19 Chris Harris, O-Dog. The evidence is going to show he's
20 hardcore Short North, hardcore Crip, a little older, very
21 respected, very feared. He walks the walk and talks the talk.
22 He's got no problem using a gun against a perceived enemy,
23 including cops.

24 Deounte Ussury, D Frog. Again, originally a 218 guy.
25 Really coming into it for the money, the evidence is going to

1 show. He'll fight if he has to. But he's in it for the money.
2 He'll kill during a robbery if he has to, and he does a couple
3 of times. But he's Homo. He's Homicide Squad.

4 Bucc, Mr. Liston. Again, hardcore Crip, hardcore Short
5 North guy, younger, kind of Harris's mentee. O-Dog is kind of
6 his mentor. Sometimes he uses the term street son, takes him
7 under his wing. Now, Mr. Liston - Bucc - is also very close
8 friends, almost inseparable, with a guy by the name of RJ,
9 Robert Wilson. You're going to hear about him.

10 This is Robert Wilson. He is another of the Homicide
11 Squad. They commit robberies together. They commit murders
12 together.

13 Brandon Ledbetter. What's Brandon about? Brandon is
14 about Brandon. Yeah, he claims Short North. He'll claim
15 Homicide Squad. He'll claim Crip. He'll throw his fours up.
16 In the end, Brandon Ledbetter is about Brandon Ledbetter.
17 He'll use these guys. He'll use Homicide Squad. He rarely
18 does the dirty deeds. He is the intelligence officer. He
19 knows where the drugs are. He knows where the money is. The
20 evidence is going to show he picks out the targets. He pays
21 them to kill people like Alan Johnson. But he's looking for
22 his cut, his money. He's got connections, significant
23 connections, outside of the Short. You're going to hear about
24 some of them.

25 But he uses these guys. He uses everybody. He uses his

1 girlfriends; kills them. He'll use anybody he needs to, to get
2 Brandon ahead. He's smart. He's hard working, and the
3 evidence is going to show he is a manipulator.

4 Clifford Robinson, Tink. This is Clifford Robinson
5 right here. Mr. Robinson isn't a member of Homicide Squad,
6 isn't a member of Cut Throat. He's from the Short. He's moved
7 kind of from the Short and kind of on the south side a little
8 bit. He knows these guys. He knows them well enough to know
9 when he's got an idea, when he's got a soft target, who to go
10 to. And you're going to hear about in a little bit what he
11 did.

12 D Nice. Dawan Franklin, another member of Homicide
13 Squad, another member of the series of robberies and murders.
14 You're going to hear about him.

15 Troy Patterson goes by Forty. The youngest of all of
16 them. Troy Patterson has never spent a day -- he is now around
17 25, 26. He's never spent a day in his life as an adult outside
18 of prison. He was locked up in 2008 for a home invasion.
19 You're going to hear him testify.

20 Now, before you feel too sorry for him, he's a convicted
21 rapist. He was convicted out of a rape and a home invasion
22 that he did with Mr. Harris. It's not your traditional,
23 horrible rape. In a lot of ways, it's worse than a
24 traditional, horrible rape. He put a gun to a woman's vagina
25 and said he was going to shoot her if she didn't tell him where

1 the drugs and money were. This young lady is not going to
2 testify. We're not going to put her through that. But we're
3 going to put him through it.

4 He's going to take the stand, and he's going to tell you
5 what he did, not just about that, but about all the other
6 things Homicide Squad did. He was indicted along with these
7 guys as well. He's pled guilty to a murder. He is a killer.
8 He's going to do every single day for that rape. He got
9 sentenced to like 12, 15 years; I don't recall. He'll tell
10 you. He's not getting a deal. The question is how much more
11 time does he do for the murders he committed. And in the end,
12 the evidence is going to show it's up to Judge Marbley.

13 Anthony Jones. Tony Jones. Tony Jones is one of the
14 guys that got the ball rolling, one of the guys they talked
15 about. 2012, he got caught. Most of these other guys were --
16 actually, before 2012. In 2012 he began to talk because he was
17 facing murder charges. These guys were locked up. He goes and
18 commits a robbery with some new people. They lose the battle.
19 He gets shot. His associates get shot and killed. It's still
20 murder. They might not be the person to do the killing, but
21 they went in with guns to rob a place and they got killed doing
22 it. That's still murder. It's a felony murder; cut a deal
23 with the state of Ohio and with the United States, and he is
24 going to come in and testify. Listen to what he has to say.
25 You're not going to like him. We just ask you to listen to

1 what he has to say.

2 Okay. I'm going to talk briefly about racketeering
3 conspiracy. So we have to prove that an enterprise exists. We
4 already talked about that enterprise. We have to prove it's a
5 group of people associated in fact that has a common purpose,
6 and this common purpose is to rob people, sell drugs, commit
7 murders. This is what their purpose is.

8 We also have to prove to you two events, two what we
9 call predicate offenses; that each one of these individuals at
10 one time, or two times, during this conspiracy committed an act
11 of drug trafficking, murder, attempted murder, robbery or
12 extortion. Now, I've already talked about some of them. I've
13 already talked about some of the stuff that Mr. Ussury's done
14 in 2005 and 2006, Mr. Harris has done in 2005, 2006. We've
15 already talked about the murder of Alan Johnson. They can all
16 be considered as one of those two predicate offenses we have to
17 prove.

18 You're also going to hear about -- and the judge has
19 already told you about -- murders is their own separate counts.
20 There's counts one, two, and three and they go on and on.
21 Those apply only to murders. They don't apply to every one of
22 them. For example, Mr. Ledbetter is charged as -- in the Alan
23 Johnson murder. Mr. Ussury wasn't there, wasn't conspiring to
24 do that murder, so he is not charged in that count.

25 All that being said, I'm going to continue. And as we

1 talk about these cases, know that we're going to ask you to
2 consider all of these crimes as predicate offenses to that
3 racketeering, that first count. You're going to hear it over
4 and over again. We really want you to concentrate on the
5 facts. The judge is going to apply the law. We just really
6 want you to kind of think about the facts at this point.

7 So now Homicide is up and running; Homo. Cut Throat is
8 kind of gone. Some of them are still there. These guys are an
9 associate of Cut Throat. Cut Throat is not their rival. Cut
10 Throat is their father, if you will, to some extent. The guys
11 in Cut Throat that are out are still running with these guys.
12 They're not rivals. This is just a newer generation.

13 Mr. Liston, he's now a young guy in Homicide Squad
14 walking around Fourth Street near D&J Carryout, sees a guy by
15 the name of Quincy White. He's kind of a old-school guy, not
16 originally from the Short. He dares walking around. He's
17 perceived as disrespecting the Short North. Quincy White was
18 in prison for about four years. He knew the older guys, guys
19 like Mr. Slaughter, Mr. Green, some of these guys he could buy
20 drugs from. Asserting their new authority, their new control,
21 he's shot by Mr. Liston. He lives, but he's shot.

22 It keeps continuing.

23 Mr. Harris, Dawan Franklin, a guy name Larry Smith, they
24 feel they're disrespected by Mr. Harris's girlfriend. They
25 don't -- because she is not doing what he wants her to do. So

1 he shoots up their car -- her car, leaves shell casings. A
2 little while later a guy by the name of Alfred Monroe, an older
3 guy that lives in the area, has an illegal boot joint. At
4 night you can go by booze there. They go to rob it. They
5 shoot him. They shoot him a lot. He survives. He lives. He
6 subsequently died of natural causes; but he lives.

7 Shell casings. The same gun used to shoot up
8 Mr. Harris's girlfriend's car -- that's India Hawk's car -- is
9 the same gun that shoots Alfred Monroe. You're going to hear a
10 ballistics expert say within a reasonable degree of ballistics
11 certainty that's what happened.

12 Let's talk about the guns. There are a lot of guns.
13 Some of these guys really like the particular gun they have.
14 They like to keep it. Sometimes they can't, because when you
15 use a gun and you kill somebody, they know that everyone's
16 looking for the gun. By "everyone," I mean the police.
17 They're going to try to find that gun. You can't use it again.
18 So they toss it. They do more than toss it. You're going to
19 hear, religiously, very disciplined, they melt it down. They
20 melt all the plastic off it and take the pieces of metal and
21 throw them in different places, often in the river. That's
22 what they do.

23 If you shoot at somebody and they don't die, or you
24 shoot at a house, they'll probably keep it. In the end, that
25 kind of bites Mr. Harris in the butt. And we'll show you why.

1 Marschell Brumfield. Mr. Brumfield, he is a drug
2 dealer. And he was either buying or selling drugs from
3 Mr. Ledbetter. We're not sure which. Remember he's not from
4 the Short. In fact, I believe he's from the Canton area, or
5 Akron area. He is a target. That's a target opportunity.
6 Mr. Ledbetter knows it, so he follows Mr. Brumfield home to his
7 apartment that he's staying at here in Columbus; knows where it
8 is. He contacts Homicide Squad, contacts Mr. Harris,
9 Mr. Franklin, Mr. Ussury, Mr. Liston, and Troy Patterson. He
10 says, I got one for you. Come up north. Come meet me.

11 They meet him. Mr. Ledbetter is in his maroon
12 conversion van you're going to hear a lot about. Mr. Harris is
13 driving one of the vans that he has; shows him where it is.
14 Mr. Ledbetter doesn't get out of the van, stays in the parking
15 lot. They go to do what they're going to do.

16 Mr. Brumfield I don't want you to confuse for
17 Mr. Broomfield who is another drug dealer you're going to hear
18 about later.

19 Mr. Brumfield was just getting home. Mr. Harris and
20 Mr. Patterson - Troy - the younger guy, they go do what they
21 do, which is one of the things that they're good at. They'll
22 go knock on the door and ask for some name, to see if they'll
23 answer it, see if someone's home, even if they say they're not
24 here, they know they're in the house.

25 Well, they're doing that. They knock on the wrong door.

1 Mr. Brumfield actually lived in the door next to him. While
2 this is going on, unbeknownst to those two, Mr. Brumfield pulls
3 up. The rest of them - Mr. Ussury, Mr. Liston, Mr. Franklin -
4 they get him at gunpoint, bring him to the front of the
5 apartment. They're outside. It's late at night. They say,
6 Give us your money. They rip an earring out, diamond earring,
7 start to strip him down. They want to get in the house because
8 that's where the money is, that's where the dope is.

9 They tell him go knock on the door. He didn't want to
10 do it. They said knock on the door. They don't know
11 Mr. Brumfield. So he knocks on the door. And the lady that
12 you're going to hear about, a young, young girl who was his
13 girlfriend, starts to come to the door. And she says, Who is
14 it? He says, It's Dirty.

15 Now, Homicide Squad thinks when he's saying it's dirty,
16 he's trying to alert the people inside the house, like a verb
17 or an adverb or an adjective.

18 Anyhow, what he's really saying is that it's me, Dirty.
19 His nickname, his street name, is Dirty. Well, that mistake,
20 miscalculation, cost him his life. They grabbed him. He
21 starts to struggle. He says something to the effect if you're
22 going to shoot me, shoot me. So they do. They kill him.
23 Three people shoot him. Shell casings from different guns.
24 You're going to hear a revolver was used as well.

25 They run back to the van. Ledbetter leaves. They

1 leave. People go up and try to save him. They don't save him.
2 He dies. And the murders continue.

3 Tony Cumberland. Tony Cumberland is a Deuce Deuce
4 Blood. Remember, there is a battle going on between Short
5 North Posse and Deuce Deuce as well. Remember what happened
6 over at the Latino Fest. One of the Deuce Deuce guys was shot
7 in the head.

8 Now, Tony, he runs with Deuce Deuce. He sees Chris
9 Harris in his car with some other people, so he takes a shot at
10 them, blows out the back window. Harris goes home. They get a
11 different car. He goes back with some other individuals from
12 Homicide Squad and shoots him. He lives, though; doesn't die.
13 He's uncooperative with the police, of course. But what's
14 Mr. Harris do? Leaves those pesky shell casings again on the
15 ground, 9 millimeter shell casings.

16 He also is having a dispute with a guy by the name of
17 Tyrone Jackson. Tyrone Jackson is at his store. He owns a
18 store, a chicken place, trying to start a business. And
19 Mr. Liston, Mr. Harris, take pop shots at him; don't hit him,
20 miss him. But they leave those pesky shell casings again, 9
21 millimeter shell casings. Remember, two more incidents with
22 two 9 millimeter shell casings, not from the same gun he used
23 to shoot India's car, not the one he used to shoot Alfred
24 Monroe. Alfred Monroe almost died. He got rid of that gun.
25 This is a different 9 millimeter.

1 In the meantime, it's now August of 2007. Mr. Liston is
2 an adult. He's with Mr. Franklin, D Nice. People happened to
3 be walking around the Short North near the D&J Carryout. Bad
4 idea. They're robbed. Two people who didn't even know each
5 other, two different people robbed within an hour of each
6 other. You're going to hear from those people.

7 Now, Mr. Liston eventually pleads guilty to some of
8 these things. And you're going to hear stipulations about some
9 of these convictions. They were, in fact, convicted of them.
10 You can still use those when you consider your predicate
11 offenses.

12 Donathan Moon. This is where Mr. Robinson comes in.
13 Donathan Moon is a young man. He's with his girlfriend. He
14 goes to a friend's house who lives outside the city in
15 Pataskala, Licking County. The friend's name is Greg
16 Cunningham. Mr. Cunningham, calling him a pimp might be too
17 strong, but not far off. He is in the business of
18 entertainment, bachelor parties, parties. He brings in dancers
19 and strippers from all over Ohio, different states, even
20 Kentucky. I tell you that because that's going to be important
21 that he brought in dancers from Kentucky across state lines.
22 We'll get into that in a little bit.

23 But the night before Mr. Moon is killed on August -- he
24 was killed an August 19th. On August 18th, there was a party
25 at Mr. Cunningham's house. Mr. Cunningham's house, he lived

1 there, but it was also like a bar, strip joint. The basement
2 had a stripper pole, a whole bar, hot tubs, lots of things to
3 entertain. It's kind of in the middle of nowhere. He has this
4 party, and there are about a hundred people at this party.
5 It's for money. The girls are making money. He's making
6 money. Mr. Moon is there. The party ends.

7 Someone gets wind of this party. Somebody knows
8 somebody who was in that house. Somebody's got a layout of the
9 house, knew what the house was like, knew where cameras were,
10 knew where people were, and knew there had to be a lot of
11 money. That somebody was Clifford Robinson, Tink. He knew
12 these guys. We're not alleging he's part of the enterprise.
13 We're not alleging that he's associated with them for an
14 extended period of time, but he did that night. He knew who to
15 go to, and he went to Homicide Squad.

16 You're also going to hear about a guy by the name of
17 Rastaman Wilson. Rastaman Wilson and Clifford Robinson were
18 friends. Rastaman Wilson was indicted in this case along with
19 everyone else. And about two months ago, Rastaman Wilson died
20 awaiting trial from natural causes, cancer. But you're going
21 to hear from him. Rastaman has this guy he goes to Columbus
22 State with by the name of David Hurt. He asks, Dave, hey, do
23 you want to make a quick buck? He says yes. All you need to
24 do is drive. We'll get you like five grand. You drive. He
25 says sure. He knows what's going to happen. He knows there's

1 going to be a robbery. So he drives -- Mr. Hurt drives his
2 car. Rastaman drives his mother's car.

3 They go with Mr. Robinson. They pick up RJ and Chris
4 Harris. RJ is Robert Wilson. You'll hear about him. You even
5 saw a picture of him, part of Homicide Squad. These guys know
6 what they're doing. They all got guns except for Mr. Hurt.
7 I'm not sure if Rastaman has a gun. They have an AK-47. They
8 have pistols.

9 Now, Clifford knows where to go. He knows what to do.
10 They go to the place. They kind of check it out for a while.
11 It's late at night. They try to turn off their lights. The
12 party is done. Mr. Moon stayed. Donathan stayed with his
13 girlfriend. He was just relaxing. It was late at night. He
14 was about to go to sleep. There were a few other girls in
15 there. Mr. Cunningham was in there. They bust in. They've
16 got gloves. They've got masks. Some of them have masks. They
17 all have gloves.

18 Mr. Moon goes to close the door to the bedroom.
19 Mr. Robinson shoots through that door with an AK-47, busts in.
20 The girl tries to jump out the window. Mr. Robinson shoots at
21 the girl, wounds her. And then RJ goes up to Mr. Moon and
22 says, You saw me, and shoots him, kills him.

23 They all take off. They all get back in their cars.
24 Mr. Hurt doesn't know what's going on. Mr. Robinson gets in
25 his car, perhaps Mr. Harris. Mr. Hurt has never seen RJ or

1 O-Dog before in his life; knows Rastaman, knows Clifford
2 Robinson, has been to his house, his mother's house off of
3 Livingston. He's had beers with him; not good friends with him
4 but knows him, doesn't know the other two guys until that day.
5 They go home, go their separate ways, drop off RJ and O-Dog and
6 everything's fine. Nothing happens. The case lies cold.

7 Now, Licking County does the best they can. They bring
8 in BCI, prints. We've talked a little bit about prints. Let's
9 talk about that. Prints and DNA. We heard -- in voir dire,
10 there was a lot of talk about whether the lack of that means it
11 should be considered as exculpatory somehow. Now, let's talk
12 about reality. You're going to hear reality. You're going to
13 hear from police and crime scene people and fingerprint people.
14 In reality, not every case involves semen and blood. In
15 reality, four people going into a house with gloves aren't
16 going to leave semen and blood around, at least not their own
17 blood. They left Donathan Moon's blood. You're going to hear
18 some people talk about this.

19 In this one scene, for example, the Donathan Moon
20 scene --

21 MS. DIXON: Objection, Your Honor.

22 THE COURT: Sustained. Side bar. This might be a
23 good time. We're going to have a side bar, and I'll ask you at
24 side bar.

1

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2

Thereupon, the following proceeding was held at side bar
out of hearing of the jury:

4

THE COURT: Go ahead, Ms. Dixon.

5

MS. DIXON: Your Honor, I believe that this is going
beyond what opening statement is supposed to be. And it's
getting more and more argumentative as you go. There have been
other spots, but I typically don't like on interrupt an
attorney in opening. And I know the admonition you gave us in
the pretrial conference in terms of you don't do it to me, I
won't do it to you. But that is what my objection is.

12

THE COURT: I'm going to sustain your objection. You
were rolling along quite well, Mr. Devillers, until you got to
the point where you told the jury this is their case and you
want them to own it. You know and I know that that was
argumentative, but nobody objected and I wasn't going to
interrupt. But you have a veritable treasure trove of facts.
If you just read the superseding indictment to them, you would
have all of the facts that you would need for a great opening
statement. So I want you to back it down, tell us the story
which is rife with facts. Leave the editorial for your closing
argument. I just -- just leave it for your closing argument.

23

So now what I was going to ask, though, is are you at a
point where you can break, or when will you get to the next
point, a good breaking point, so that the jury can have its

1 morning recess?

2 MR. DEVILLERS: I can finish the Moon facts and
3 then -- about five minutes.

4 THE COURT: Why don't you let me know when you're
5 done.

6 (Back in open court.)

7 THE COURT: Please continue, Mr. Devillers.

8 MR. DEVILLERS: We were talking about Mr. Moon. So
9 all these individuals get home. It's dark. And it is a cold
10 case. Nothing happens for years until Mr. -- the evidence is
11 going to show that Rastaman, Mr. Wilson, tells his girlfriend
12 about it, Ashley. You're going to hear from Ashley. She -- he
13 tells her what happened, tells her who was involved. Now, she
14 doesn't know RJ and O-Dog, but she knows Clifford, knows
15 Mr. Hurt, to some extent; and tells the police.

16 Now, Mr. Hurt hasn't seen -- David Hurt hasn't seen
17 Mr. Robinson in quite a while, hasn't seen Rastaman Wilson who
18 ends up going to prison, hasn't seen RJ and O-Dog since this
19 took place.

20 In 2011, a detective shows up at his door, let's him in,
21 doesn't know what this is about. By the way, this is recorded,
22 this statement; says, hey, there was a robbery that went wrong
23 in Pataskala. A man was killed. What do you know about it?

24 He tells him. He's shocked, couldn't believe that the
25 guy was here after all these years. But he tells him what

1 happened the best he can. He's trying to remember, doesn't
2 have all the details right. He's never seen O-Dog and RJ in
3 his life, the person they believe was B Rock and RJ, doesn't
4 know which one is which, just knows the names. After the
5 detective would leave, he would call back and say, I believe it
6 was O or O-Dog, not RJ; knows Clifford; knows Rastaman Wilson.
7 Rastaman Wilson is locked up at this time. He's in prison in
8 2011. In fact, he's in prison with Bucc and Chris Harris and
9 Forty, Troy Patterson. And Mr. Hurt tells the cops that.

10 So there's a plan. The plan is for Mr. Hurt to wear a
11 wire and go in and visit Rastaman Wilson. He does that. He's
12 told not to lead him. Let him talk. He's actually got a
13 little video camera too. They wire him up. He walks in there.
14 He does it, asks some questions. You're going to hear from
15 Mr. Hurt what he said. Everything's great. Goes back to the
16 detective. They start to listen to the audio and video, yeah,
17 not so great. There's background noise. This is a big room
18 with a bunch of people. You can hear very little to anything.
19 In fact, it's so bad, you're not going to hear it. The Court
20 has ordered rightfully that you're not to hear it.

21 But you will hear from Mr. Hurt. And better yet,
22 something did clear up that conversation because Mr. Wilson,
23 Rastaman Wilson, is locked up in prison. His calls are being
24 recorded. Now, he knows his calls are being recorded. But he
25 makes a phone call to his mother, Jada Wilson, and starts to

1 clear things up for us. You are going to hear those phone
2 calls. You're going to hear him tell her about Mr. Hurt's
3 visit. They talk in code a bit, but it's not a very
4 sophisticated code. Using your common sense, you'll know what
5 they're talking about. It becomes clear that Jada Wilson knows
6 what happened.

7 The next call the next day later, Ms. Jada Wilson talks
8 to Rastaman about, Hey, do you think maybe David Hurt was
9 wearing a wire? She's right. He was. You hear Rastaman say,
10 Oh, I hope not.

11 Rastaman talks about being locked up with the guys, with
12 Mr. -- with RJ and Bucc. He knows what they're talking about.
13 You're going to hear that conversation. Now, they're trying to
14 figure out, well, how did the police -- this is before they
15 figure out that Hurt might have been wearing a wire. How did
16 the police know to go to Hurt? How did the police know to go
17 to David? They can't figure that out. It's really because of
18 his girlfriend Ashley.

19 They start to question whether it was because of T or
20 Tink, Clifford Robinson. Jada knows him as Clifford, T or
21 Tink. She questions Rastaman. What about T? Could he have
22 told? No. He didn't know David Hurt's last name. You're
23 going to hear that tape.

24 Now, the police go to see Mr. Robinson. And they inform
25 Mr. Robinson that he's being investigated for this murder.

1 They inform Mr. Robinson there's accusations that he and Hurt
2 and O and RJ and Rastaman committed this crime. Now, what
3 does -- when they leave, what does Tink do? What did Clifford
4 Robinson do? He makes a phone call right away. Who does he
5 call? He calls -- tries to call Jada Wilson. He knows her
6 phone number. He tells the guys on the phone, let's try to get
7 ahold of Jada. Here's the number.

8 He talks about these guys RJ and O-Dog being locked up
9 with Rastaman. He doesn't know how they know. He's trying to
10 find that out. You're going to hear that call.

11 Photo arrays are put together. You're going to see a
12 couple of photo arrays in this case. A photo array is six
13 pictures of individuals that have common features. A photo
14 array of me would be a guy, white male, 50 years old, gray
15 hair, five-ten, five-nine, and they're put into a computer and
16 all this stuff pops out. They show it to somebody. They did
17 that in this case.

18 They put Mr. Robinson in a photo array. You're going to
19 see that photo array. We're going to put that photo array up,
20 and you're going to have a chance to look at it. We ask that
21 you do. In that photo array is Clifford Robinson. That photo
22 array is evidence. We're going to ask you to consider it as
23 evidence. We're going to ask you to consider, with
24 Mr. Robinson right here in the courtroom, would you be able to
25 pick him out of that photo array. Because Ashley and David

1 Hurt, they could not. The evidence is going to show they did
2 not pick him out.

3 Now, they hadn't seen him in years. We're going to call
4 them into this room and ask them to look around the room and
5 see if they can identify Mr. Robinson. The evidence is going
6 to show that they knew this Tink, this Mr. Robinson. The
7 evidence is going to show he called himself Tink. The evidence
8 is going to show they've been to his house, and that's the
9 right house.

10 Now, Mr. Robinson, when he was indicted on this case and
11 arrested, he looked a lot different than he does now. He
12 decided to change his appearance; shaved his head. He's
13 wearing glasses, trimmed up his mustache and beard. You're
14 going to see a picture of what he looked like when he was first
15 arrested. And we're still going to ask those people if they
16 look around the courtroom, if they can identify the person they
17 know as Clifford Robinson, as Tink.

18 That's not the end of the story. Like I said, Rastaman
19 Wilson died about two months ago. We had not talked to Jada
20 Wilson. We waited some time after the death to talk to her.
21 We asked her to come in. She did. This happened about a week
22 and a half ago. She came in. She talked to us. She said,
23 yes, about a week after the murder, Rastaman told her what
24 happened. She was afraid. She said she was afraid. She
25 didn't want to testify. She said she didn't want to testify.

1 She didn't tell us everything that first day. She sat
2 down with our victim witness assistant and they talked. And
3 she told her -- she told the victim witness assistant snitches
4 get stitches.

5 She called -- she called back. She said, I didn't tell
6 you everything. It's pretty clear she didn't. She said, I
7 know more. She said, I did talk -- when I was talking about
8 Tink or T, Clifford Robinson, I was talking about this man
9 behind us. She knows him. She's been to his house, knows
10 where his grandmother lived off of Liv Moor.

11 You're also going to see that Rastaman Wilson asked his
12 mother last year, after the indictment, to give money to the
13 defendant Clifford Robinson, to provide him money. You're
14 going to see documents of that. She did. We didn't know that.
15 She did three times. You're also going to see another name on
16 that list of people that provided money to Clifford Robinson;
17 ask you to take a look at that. We also didn't know at that
18 point how they knew to hit Cunningham's house. We didn't know
19 that they had a layout of the house. You're going to hear the
20 witnesses inside the house say that it looked like they knew
21 where everything was; we couldn't figure out why or how.

22 Jada Wilson cleared that up for us. It was Tink that
23 knew. Tink knew somebody in that house and had the layout.
24 That's what the evidence is going to show.

25 Your Honor, would this be a good time to break?

1 THE COURT: Yes, this is a good time. Ladies and
2 gentlemen, we will take our morning recess now. It's 10:40.
3 We'll stand in recess until 10:55. At 10:55, we'll want to
4 resume with Mr. Devillers' opening statement. So I'll ask --
5 this is really more like a ten-minute recess. In the next five
6 minutes, we'll have everybody in your seats.

7 Remember the Court's admonition not to speak about this
8 case either among yourselves or with anyone, or to engage
9 anyone you might see during the break. Thank you very much,
10 ladies and gentlemen.

11 (Recess taken from 10:41 a.m. to 10:55 a.m.)

12 (Thereupon, the following proceeding was held in open court
13 with all defendants and counsel present.)

14 (Jury in at 11:00 a.m.)

15 THE COURT: Mr. Devillers --

16 MR. DEVILLERS: Thank you, Your Honor.

17 THE COURT: -- please continue.

18 MR. DEVILLERS: On August 19, 2007, Mr. Moon was
19 killed, and it did not -- it continued.

20 * Q On October 6, 2007, Mr. Ledbetter found
21 another target, found another person that could be
22 robbed, a drug deal. Now, this person is a little
23 more complicated because he lived, east side of
24 town, in a gated community with a code to get in and
25 out, but he knew it, and he contacted Homicide

1 Squad: Chris Harris, Deounte Ussury, Marcus Peters.

2 Remember, Marcus Peters is the man that was involved
3 in the murder of Alan Johnson as well, but this is
4 the last time Marcus Peters would be involved in any
5 robbery, because he didn't survive.

6 Mr. Ledbetter and Marcus Peters talked on the phone
7 shortly before the robbery. You're going to see those phone
8 records.

9 Let's talk a little about phones, whose phones.

10 These individuals used phones all the time. They used,
11 back in the late 2000s, NexConnect, Push to Talk as well. They
12 didn't keep all the phones. The phones were rarely in their
13 own name. They used throw-down phones, buy 'em and throw 'em.
14 But sometimes they kept their phone. They weren't in their
15 names, but we could find out whose phone was who through phone
16 records. And this is how.

17 Often, we keep contact lists in our phones. And these
18 guys didn't keep Chris Harris as Chris Harris. They had it as
19 O-Dog, or D Frog, or B. Ledbetter or Killer B, or R.J. or Bucc.
20 We have those phones. Often those phones were taken from
21 people that were arrested within the Short North Posse Homicide
22 Squad. Often those phones were taken off of victims, people
23 that were -- in the Short North Posse that were killed and the
24 phones were found on their bodies. We have those contact
25 lists. We have forensics people look at the phones and see --

1 look at those contact lists. You're going to hear from some of
2 those forensic people. You're going to have some forensic
3 people who were able to pull off some texts off them, text
4 messages. It's a bit rare, especially in late 2000s, but it
5 happens.

6 Now, call detail records, call detail records basically
7 say -- in my phone it would say who I called and when I called
8 them, sometimes for how long. It lists the number. It won't
9 list the name of the person who called, but it will list the
10 number. We're going to do the best we can to match those
11 contact lists from SNP members that we have forensic phones on
12 to numbers called and persons' and people's call-detail
13 records. It sounds complicated. It's really complicated. But
14 what we've done in some cases, we're able to look at a murder
15 and see who they called, such as was called immediately before
16 and immediately after the murder.

17 Now, again, these are cold cases. These records aren't
18 kept forever. So, for a lot of the murders, we don't have
19 those, the police didn't get them, mostly because the police
20 didn't have a suspect.

21 You're going to see really good police work in this
22 case, and you're going to see not so good police work in this
23 case. But all the evidence we have, we're going to show you.

24 Now, some of these people, like Mr. Ussury, we have a
25 lot of his phone records, not because we knew he committed a

1 particular murder or not, but because, at the same time, the
2 DEA and ATF and FBI were looking at him for drug cases, some of
3 the drug cases that you're going to hear about. Same with Mr.
4 Harris and Mr. Ledbetter. We have some records on those
5 individuals. And we have records in this particular case.

6 You're also going to hear about cell site data, or cell
7 tower data. Sometimes, not all the time -- it's not kept
8 forever, but if the detective, the police agency, got those
9 records around the time of the robberies and murders, we're
10 able to tell where that phone is when people call it or a call
11 is made from it.

12 You're going to hear somebody by the name of Bob Moledor
13 come in, who is on the FBI task force, come in and talk to you
14 about that. And we have that in this case.

15 Now, this isn't GPS. I can't say that, within a foot of
16 somebody, where that phone is. But we can tell you sometimes,
17 with triangulation, where they are in relation to a particular
18 cell tower, within a couple miles of that cell tower, what side
19 of that cell tower. It's usually by three parts. It's like a
20 pie, like three -- a pie with three slices. So we can narrow
21 it down some, and you're going to see that in this case.

22 2627 Bridgestone Drive was the home of an individual who
23 was involved in drugs, and he's going to come in, and he's
24 going to testify, Deshawn Jones. That was his house. And they
25 went to hit a lick, or a robbery, on that house.

1 You're going to hear some terms called straps. Straps
2 are guns. You're going to hear things called stacks, or
3 stizzles, which are a thousand dollars. These are some of the
4 terms you're going to use -- you're going to hear. And they
5 went to get some stacks with their -- with their guns, with
6 their straps.

7 Now, Mr. Ledbetter or, rather, Mr. Harris, if you
8 recall, used a firearm to shoot Mr. Cumberland and Mr. Jackson.
9 And he left the shell cases. Same gun used in both of those
10 shootings. Mark Hardy, again, ballistics expert, will come and
11 say, with a reasonable degree of ballistics certainty: Same
12 gun used.

13 He also brought that same gun -- because, remember, on
14 those two events, no one was killed -- he brought that gun to
15 do the robbery with Marcus Peters, set up by Brandon Ledbetter.
16 You'll see a phone call go in from Brandon and Marcus. They go
17 to the house. No one is there. They break in. They've got
18 masks. They've got gloves. They drive Marcus' car, or a car
19 that Marcus Peters is using, which is a 300 Chrysler, park it
20 down the street. They break in. It's dark. Everything is
21 going fine until Deshawn Jones decides to come home. He's on a
22 date. He's with a girl. Goes up to his front door, puts the
23 keys in the door, goes to open. It closes. What's inside that
24 house is Mr. Harris, Mr. Ussury, and Mr. Peters.

25 Mr. Peters is at the door. He slams the door, pulls out

1 a gun, fires one round through the door. The bullet misses
2 Mr. Jones, goes through, actually, to a house across the
3 street.

4 Now, remember, at this time, this very second, Mr.
5 Ussury and Mr. Harris are behind him. It's dark. They're
6 collecting things. You're going to see the stuff they were
7 trying to steal. They pull out their guns at that moment,
8 thinking, the evidence will show, that someone's trying to get
9 in.

10 They fire. Harris fires his nine millimeter once.
11 Ussury fires his .357 Magnum four times. Two of those bullets
12 go into Marcus Peters. Marcus Peters dies at the door where he
13 fired his shot.

14 You're going to hear evidence that three firearms were
15 shot that night: One by Marcus Peters, one by Chris Harris,
16 four shots by Mr. Ussury. That gun that Chris Harris fired,
17 that shell casing, matches the same from the Cumberland
18 shooting and the Jackson shooting.

19 You're going to hear an expert come and talk about
20 ballistic certainty. Same gun, three times. It's not the
21 murder weapon. The murder weapon is a .357, but he was there,
22 shooting that gun. The gun was later destroyed, as was Mr.
23 Ussury's.

24 They shoot. They jump out the window. They run.
25 Witnesses see two male blacks running down, across a parking

1 lot where the car is. They've got to get the keys off the body
2 of Mr. Peters, and they do. They get in the car, this Chrysler
3 300, and they start driving. They drive up north for awhile.
4 They're making phone calls. They're calling R.J. and Bucc and
5 Dennis White. They're trying to figure out what's going on.
6 They're calling the same people. They're both in the car
7 together. Eventually, Mr. Harris drops Mr. Ussury off up
8 north. He goes back, Mr. Harris does, with the car, drops it
9 off at 6 -- 6th Avenue in the Short. Leaves it.

10 Police get to the scene. You'll hear evidence they have
11 information to believe that Chrysler was used. So they put
12 SWAT on it to do surveillance on it the next day. They're
13 looking to see who will go to it, who is going to go to that
14 car. The car is not in Marcus Peters' name. It's in his
15 girlfriend's.

16 Lo and behold, a van pulls up, a maroon conversion van,
17 Mr. Ledbetter's van. Mr. Ledbetter gets out of his van and
18 goes up and is looking in that car. Doesn't open the door. Is
19 looking in. He doesn't want any evidence linking him to that.
20 He looks around, walks and gets in the van, and drives away.
21 It's under surveillance.

22 Now, we talked about the phones. The evidence is also
23 going to show that the phone that Mr. Ussury had and the phone
24 that Mr. Harris had were pinging. When I say "pinging," I mean
25 it was hitting off of cell towers. And it's going to show

1 that, immediately before the murder, they're in the Short.
2 Phone calls start coming in. They call each other. Next
3 connect, too, with Mr. Peters. Meet with Mr. Peters. The
4 phone is pinging, pinging, pinging to up east to Bridgeport, to
5 where this murder took place.

6 After the murder, they're calling their people, trying
7 to figure out what to do. You'll follow that phone, both their
8 phones, pinging, pinging, pinging until up north. Ussury's
9 phone stays up north. Harris' goes back down to the Short,
10 where the car is dropped off. Now they're calling each other,
11 two o'clock, two-thirty, in the morning. That's what the
12 evidence will show.

13 The tower that the phones are pinging off immediately
14 before the murder, it's less than a half a mile from where this
15 murder took place. And the murders continue.

16 Rodriccos Williams. Rodriccos was a drug dealer and
17 was, at one point, a pretty heavy drug dealer. And he did what
18 a lot of Americans that are in crime, or not in crime, wanted
19 to do. He wanted to retire. Started investing money in
20 legitimate businesses, too. But he was still dealing, at least
21 with marijuana. Had kids, had a wife, moved to Pickerington,
22 but he was still in the game. Mr. Ledbetter knew him.
23 Mr. Ledbetter didn't like him. Mr. Ledbetter used to date his
24 wife, LaTonya Boyce, now called Latonya Williams. They still
25 had a cordial relationship. They would talk on the phone from

1 time to time. They'd share clothes. They both had kids, so
2 they'd meet and share clothes.

3 You're going to hear evidence that Mr. Ledbetter wanted
4 to rob Mr. Williams, didn't like him. You're going to hear
5 about that. You're going to hear about his intent to do that
6 beforehand. So, on November 3, 2007, Mr. Ledbetter gets his
7 crew together, gets the Homicide Squad together. Along with
8 them is a person by the name of E-Dub. Goes by Earl Williams.
9 You're going to hear a lot about Earl Williams. Earl Williams
10 is an associate of Mr. Ledbetter and eventually became a part
11 of the enterprise. He did robberies with Homicide Squad and
12 Short North. He's not originally from there, but he was
13 introduced to Mr. Ledbetter. You are not going to like this
14 guy. He is a killer. He is a contract killer. He is a
15 dangerous man, and you're going to hear from him.

16 Contacts Mr. Ledbetter. You'll see a phone call,
17 because we have Mr. Ledbetter's records as well, phone records
18 called detail records, call-detail records only. There is a
19 call between E-Dub, Earl Williams, and Mr. Ledbetter. They
20 meet up. They meet up with R.J., Robert Wilson, III; Bucc, Mr.
21 Liston; Mr. Harris, O-Dog.

22 Now, Mr. Ledbetter rented a vehicle. He rented a white
23 Lancer, if I'm not mistaken -- white Mitsubishi Galant. And he
24 rented it on November 1st, and he was supposed to have it until
25 November 8th. And, on November 3rd, he uses that car. They

1 all get into it. They drive -- They're going to drive out to
2 Mr. Williams' house. They don't know where he lives. But
3 Mr. Ledbetter is talking to LaTonya, talking about the clothes.
4 Talk about meeting up. You'll see the phone calls, hours
5 before, between the two of them. An hour before, another phone
6 call between the two of them. There is a phone call to a woman
7 named Crystal Fyffe.

8 Crystal Fyffe and Mr. Ledbetter talk. You'll hear that
9 Crystal Fyffe provided -- Googled the address of Mr. Williams,
10 provided that address, over the phone, to Mr. Ledbetter.

11 Drive to Pickerington. There is a phone call between
12 Ms. Williams and Mr. Ledbetter. Ms. Williams has told, already
13 told, Mr. Ledbetter that Rodriccos is out with the kids. They
14 went to a movie.

15 Minutes before they go in, Mr. Ledbetter calls
16 Ms. Williams, LaTonya. He sends in the Homicide Squad, sends
17 in E-Dub, Chris Harris, Liston, Wilson. They go in. Earl
18 Williams grabs Ms. Boyce, Ms. Latonya Williams, goes upstairs.
19 The others stay downstairs because in comes Rodriccos with his
20 kids. LaTonya's brother is in the house, too. They hold them
21 at gunpoint while Earl Williams is -- Earl is upstairs.

22 Puts a gun to her: Where's the money? Where's the
23 money?

24 She gives them some money that's in the closet, or in a
25 dresser, not a bunch.

1 Knows there's more.

2 I'm going to kill you if you don't give me the money.

3 She now tells him where the rest of the money is, and
4 the weed, a few pounds of weed, and about \$90,000 in cash.

5 They take it.

6 As Mr. Williams is up- -- As E-Dub is upstairs -- he
7 went to shop -- because Rodriccos decided to run out of the
8 house, he starts to run out of the house. Chris Harris shoots
9 as he's opening the door, as Mr. Rodriccos Williams opened the
10 door. The bullet goes through the door, through Mr. Williams.
11 Mr. Williams keeps running and eventually collapses a few
12 houses down and dies.

13 The rest of them take off. They run to Brandon
14 Ledbetter's car, that white Galant rental vehicle I told you
15 about. And they're gone. They're driving.

16 The cops are called right away, a 911 call. They're
17 driving out of Pickerington. The Pickerington cops are driving
18 towards them. They actually pass each other over a railroad
19 track at night. You're going to hear Mr. Earl -- E-Dub talk
20 about that. It's caught on cruiser cam. It's night. It's
21 dark. And I'm not telling you you can read a license plate.
22 You can't. It's blurry. But you're going to see what is
23 consistent with a white Mitsubishi four-door Galant. E-Dub is
24 going to tell you that's exactly what it was.

25 They take off. They drive back to Columbus.

1 Ms. Williams, LaTonya, is clearly upset. Her husband's dead.
2 It happened in front of her kids. She doesn't know what to
3 think. She suspects Brandon. She goes up -- She suspects what
4 happened. From her parents' house, he calls -- she calls him,
5 accuses him. She hasn't said anything to the police yet. He
6 calms her down, assures her he had nothing to do with it, and
7 leaves it at that, except he just killed a guy with his
8 friends. So, he's running around. He needs to get rid of that
9 car. He needs to change his clothes. So he calls someone.

10 Now, Mr. Ledbetter has, basically, two families at this
11 time. One is a person by the name of Crystal Fyffe, and one is
12 a person by the name of Berry, Tiffany Berry. He has a child
13 with Tiffany Berry. One of those two people -- Earl doesn't
14 remember which one -- knows them both -- met them and gave him
15 a change of clothes and switched cars that night. The rest get
16 dropped off.

17 Mr. Ledbetter is making phone calls up to six o'clock in
18 the morning, but he's still got a big problem: That car, that
19 white Mitsubishi. That's what the cops are looking for. He
20 knows cruiser cam caught it. So he needs to get rid of it.

21 So, what's he do? Doesn't go to bed. At eight o'clock
22 that morning, he goes to Budget Rent a Car. You're going to
23 see the records. He's not supposed to turn it in until the
24 8th; but this is on the 4th, the morning of the murder. He
25 turns it in. The records are going to say: Customer wanted to

1 exchange vehicles. He did. Turned that one in. Got another
2 one. You're going to see those records.

3 Now, Ms. Boyce is still suspicious of Brandon.
4 Eventually tells the police she thinks he had something to do
5 with it. There is a reason why she thinks he had something to
6 do with it. And that's because she calls a person by the
7 name -- bear with me -- Lelanda (phonetic) Rowe.

8 Now, Ms. Williams used to work at a Verizon store with
9 her. Ms. Rowe stills works at Verizon. She asked her: Could
10 you tell me what cell tower Mr. Ledbetter was pinging off when
11 he called me that night?

12 She called them back. She did it. It's illegal for her
13 to do it. She's going to come and testify she's not allowed to
14 do it. She said: Yeah. You guys were pinging off the same
15 cell tower.

16 That's because Mr. Ledbetter was right outside that
17 house, in that car, calling her before he sent the Homicide
18 Squad in.

19 Now, the Pickerington police, they didn't -- they didn't
20 ask for cell site information. They didn't ask for cell tower
21 information. They did get call detail. It's been destroyed.
22 There is no record of cell tower detail or cell site detail.
23 This all comes from Ms. Rowe. She's going to come here and
24 testify. But you are going to see the phone calls back and
25 forth between Ms. Williams and Mr. Ledbetter before and after

1 the murder.

2 Now, remember, they got a lot of cash. They got
3 marijuana. They split it up. They also got jewelry. They got
4 a very expensive gold cross necklace that they ripped off.

5 A couple weeks after this robbery, Mr. Ledbetter gets
6 pulled over in a car. Seen at a suspected drug house. Cops
7 kind of follow him around. Do a pretextual stop. Inside the
8 car is Mr. Ledbetter, who's driving it, and a female. Inside
9 the car is found \$45,000 in cash, about seven grams of weed, a
10 nine millimeter, and some crack. This is less than two weeks
11 after the robbery and murder of Rodriccos Williams.

12 The murders continue.

13 Dante Hill. Dante Hill was a young man who sold weed.
14 He's not from the Short. Smoked weed. Wasn't rich. Wasn't
15 your big-time, traditional drug dealer. Dealt in marijuana,
16 sometimes kush, which is, like, a stronger form of marijuana.
17 His supplier, for the most part, was a guy by the name of Tabib
18 Broomfield, not to be confused with Mr. Brumfield.

19 Tabib Broomfield is from New York, from Queens, New
20 York, in fact, and has lived, on and off, in Columbus for
21 awhile. Tabib Broomfield is a survivor. He is street smart,
22 and he worked with the Short North. He knows these guys. He
23 knew Lance Green. He knows Mr. Ledbetter. He knows Mr.
24 Ussury. He knows Homicide Squad. He knows Cut Throat. He
25 knows what they're about. You're going to hear him testify.

1 You're going to hear him testify it's important to keep your
2 friends close, your enemies closer, and that's his philosophy.

3 He took care of these guys. I don't mean in nice ways.
4 I mean he gave them drugs and money. He'd tell them what
5 houses to rob. In fact, shortly before Dante Hill was killed
6 on December 12, 2007, he set up a robbery, Mr. Ussury and some
7 of the Homicide Squad guys. There's a Jamaican. Had this
8 expensive kush. He knew the house. He said what house to hit.
9 They hit it. They got a bunch of cash, too. And I don't
10 remember how many pounds of kush right now. He got his cut, as
11 Mr. Broomfield got his cut for setting it up. You're going to
12 hear a phone call, as a matter of fact, between Mr. Ussury and
13 Mr. Broomfield reminiscing about that very robbery.

14 Now, remember, at this time, DEA and ATF are actually
15 getting phone records of Mr. Ussury. So, those records from
16 that time period, December of 2007, they exist. Same with the
17 cell tower records. And it's going to show that Mr. Hill went
18 to see Mr. Broomfield. He was in the car with his girlfriend
19 and his girlfriend's daughter to pick up some weed at
20 Mr. Broomfield's spot, his drug house. He actually lived
21 there. And this is 1805 East 26th. So, outside the Short.

22 He goes to the house, is calling him: Hey, I want to
23 pick up some weed. Calls Mr. Broomfield's land-line. He's
24 going to shower. He's about to go see a lady friend. He says:
25 Yeah, just come on. Stop by anytime.

1 He leaves. Mr. Hill calls again, on his cell phone now.
2 He says: I don't -- He sold this kush. That is,
3 Mr. Broomfield didn't have any more of the kush that they stole
4 from the Jamaicans, but he knows that Mr. Ussury did -- has his
5 cut. He has his cut. So, he calls Mr. Ussury, calls D Frog.
6 You're going to see the phone call coming in, from his Queens
7 area code phone, to Mr. Ussury, saying: Hey, you going to come
8 serve this guy?

9 Mr. Broomfield should have known better, because Mr.
10 Ussury wasn't going to serve anybody. Mr. Ussury was going to
11 rob him. And he did. And you're going to see those cell
12 towers: The Short North, pinging on the way to Mr. Hill, to
13 Mr. Broomfield's house. They're calling back and forth.
14 Mr. Ledbetter is calling Hill, then calling Ussury and saying:
15 Yeah, he's there, because he's down the street with a lady
16 friend.

17 Pulls up. He gets out of the car. That's Mr. Hill
18 does. His girlfriend and child stay in the car. Mr. Ussury
19 jumps him. A struggle ensues, and he shoots him once and kills
20 him. Mr. Ussury runs. Tried to get -- His girlfriend tries to
21 get Mr. Hill in the car, get him to the hospital. She calls
22 911. You're going to hear that tape.

23 Mr. Broomfield gets back there. He knows what happened.
24 He knows exactly what happened, but he didn't tell the police.
25 He tries to get Mr. Hill in the car, too.

1 He goes with the police. Tells them everything, except
2 for one very important detail: The fact that he called Mr.
3 Ussury to go serve him weed. Then see Mr. Ussury's phone
4 pinging away from the scene.

5 Mr. Ussury and Mr. Broomfield, the phones are blowing
6 up. They're calling each other. Mr. Broomfield is angry.
7 Mr. Broomfield eventually goes to the Short, sees Mr. Ussury,
8 and says: Yeah, I screwed up. Didn't mean it. It happens.

9 And the murders continue.

10 Now, to be clear about something, Mr. Broomfield, he's
11 just as guilty for Mr. Hill's murder as Mr. Ussury. Even if he
12 didn't know he was going to rob him, it was a drug transaction.
13 He knows what Mr. Ussury is like. Someone died with a gun as a
14 result of that drug transaction, in furtherance of the drug
15 transaction. He was trying to either get drugs or money from
16 him, in this case money.

17 Mr. Broomfield isn't being prosecuted. You're going to
18 hear about Mr. Broomfield. He has been prosecuted for drug
19 crimes, federal drug crimes. He came in. We got him out
20 early. He had a probation violation, a parole violation. We
21 filed a motion to get him out a few months early. He talked to
22 us. We put him in a grand jury. He told us what happened. He
23 told us about some other things, too, not just this case, not
24 just this defendant, these defendants, but the other -- the Cut
25 Throat guys, who he ran with even more. All that's fair game

1 to consider. We just ask that you listen to him. He's talked
2 to the police before in the past, too, and he's always told
3 them a little bit here and there. But he said he could never
4 testify, he never would, never will. He's testifying in front
5 of you, here, in the next couple of weeks. He's not in
6 Columbus. He's hidden away. He's hidden away by the
7 government, by the FBI, as are a lot of other people. He's not
8 locked up. And he's going to be hidden away for a very long
9 time, maybe the rest of his life. And you can consider that.
10 If you think that's some sort of benefit to him, you can
11 consider it. But we're giving it to him.

12 Mr. Broomfield knows all these guys, knows
13 Mr. Ledbetter. At one time, he was fronted, which means he was
14 provided drugs to sell to give money back. And he tried to
15 sell those drugs. I think maybe they were robbed or there was
16 a hit. He didn't sell them. Broomfield didn't like that -- or
17 Mr. Ledbetter didn't like that too much. There was a
18 confrontation between the two of them at his house, at
19 Mr. Broomfield's house. Later on that night, Mr. Broomfield's
20 house was shot up by some of Mr. Ledbetter's people. You're
21 going to hear evidence of that.

22 I'm going to apologize to everybody in the jury, in the
23 courtroom, because you're going to hear some things that are
24 distasteful. You're going to hear the "bitch" word thrown
25 around like a pronoun. You're going to hear the "N" word

1 thrown around like a pronoun, mostly through phone calls, prior
2 statements. I'm not going to sanitize this case. You're going
3 to hear it all, the good, the bad, and the ugly. And there is
4 a lot of ugly. So, I apologize in advance.

5 Contract killings. Yeah, they did that, too. There is
6 plenty of drug dealers out there that want other drug dealers
7 killed, mostly people related to the Short North Posse, mostly
8 people who have vendettas. And they picked those up. You're
9 going to hear a time when Lance Green eventually gets out of
10 prison, sometime in 2008, does a few years, a couple years, a
11 Cut Throat guy. He's out. He's running with Homicide a little
12 bit. He, Mr. Ussury, Troy Patterson -- 40 -- they pick up a
13 contract to kill a guy by the name of Aaron Hughes.

14 Aaron Hughes is a drug dealer and also a person that
15 cooperated, and somebody had a contract on him. They picked it
16 up. They went out to shoot him. They failed. He lived. They
17 didn't get paid. But you're going to hear about that. You're
18 going to hear about that from Troy Patterson -- 40 -- who was
19 with them at the time. He was trying to kill Aaron Hughes.

20 Mr. Hughes would later be shot and robbed by other SNP
21 guys in his house, but he lived. Not long after that, in 2008,
22 Mr. Ussury does go to -- gets locked up for awhile, 2008'ish to
23 2010. So, he's kind of out of the picture, the Homicide Squad.
24 They lost one of their guys. But the killings didn't stop.

25 Tyrell Davis. Tyrell Davis is the same guy that fought

1 for the Short North Posse, a fist fight, at Joyce Park. He ran
2 with these guys. He associated with these guys. He was part
3 of the enterprise. He was a drug dealer, mostly marijuana, but
4 he was a drug dealer. But he had other allegiances, too. And
5 when Le-Le -- we talked about Richard Willis being killed, Cut
6 Throat guy, one of them -- was killed, that's a no-no.

7 Now, Tyrell Davis didn't kill him, but there are rumors
8 that he had something to do with it. And those rumors were
9 believed by Short North Posse guys, that he may have had him
10 come out to his neighborhood where someone was waiting for him.
11 So, a lot of them didn't like him, and they weren't going to
12 hesitate to kill him.

13 On April 25th of 2008, Tony Jones, R.J. -- Robert
14 Wilson -- Bucc, Mr. Liston, Troy Patterson were going to go buy
15 weed, marijuana, from Tyrell Davis. They were really going to
16 rob him, and Tony Jones is going to tell you he totally
17 intended to kill him before he even went in there. They'd
18 bought marijuana the night before from him. There were too
19 many people there. They couldn't do it. They went back again.

20 You're going to see a phone call between R.J., Robert
21 Wilson, who goes by Jizzle, and Mr. Davis. You're going to see
22 the phone records of him calling him that morning. They'd
23 picked up another guy you're going to hear about, Shawn
24 Waddell.

25 Now, Shawn Waddell may not have known what was going to

1 happen, may have, but he's not part of this case. He went into
2 that house. They both did. All five of them did. They parked
3 outside the house, waiting for him to get back. He was with
4 his girlfriend. That's why the call came in from R.J.

5 Mr. Davis shows up at the house. Waiting in line to buy
6 marijuana is a guy by the name of Summerville, Edwin
7 Summerville. Goes by Rio. Rio is a drug dealer, and Rio is in
8 federal prison right now. Rio is going to take the stand. He
9 didn't know what was going to happen. He went and bought his
10 marijuana. And as he was walking out, Homo guys were walking
11 in. He hears the shots not far from the house.

12 What happens is, they order the marijuana. Mr. Davis is
13 getting the marijuana. They all pull out their guns, and they
14 shoot him: Liston, Wilson, Patterson, and Tony Jones. One of
15 their guns jams, but the rest, the other three, shoot him a
16 lot. They riddle him with bullets.

17 Now, Mr. Davis actually gets some shots off, too. He
18 gets his gun out, but they get -- shot at him before. He's
19 shot in the head right away.

20 They flee. They run. Troy Patterson jumps out the
21 window. They go to a white Neon that was rented, actually for
22 Mr. Liston for his birthday, from Turquoise and Terika
23 Patterson, who are R.J.'s sisters. They're family, and they're
24 close. You're going to hear them testify. They're going to
25 testify that, on the day of Tyrell Davis' murder, these guys

1 come back to their house. And there was some sort of -- When
2 Troy Patterson jumped out the window, he cut himself. And he
3 drove back to the house. He said there -- they must have had
4 some sort of -- he said they had a food fight at Wendy's;
5 there's ketchup all over the car. So they were told to go
6 clean it out and turn in the car, which is what they did.

7 It wasn't ketchup. It was blood. It was Troy
8 Patterson's blood, who cut himself.

9 At that house, they destroyed the guns. They melted
10 them down, got rid of them. Chris Harris comes, helps clean up
11 the mess. And the murders continue.

12 Now, Terika and Turquoise, let's talk about them a
13 little bit, tell you about grand jury, people being brought
14 into grand jury.

15 When this case first started to be investigated in 2012,
16 2013, people were dragged into grand jury not knowing why.
17 They were subpoenaed. They showed up. They took the stand.
18 They didn't know what we knew. And, at the time, we didn't
19 know a lot. But they didn't know that.

20 Yep, a lot of them would lie. A lot of people you're
21 going to hear testify lied to us; when talking to police, for
22 years lying to us. You can consider that. But Terika and
23 Turquoise, they have no reason to lie. They probably thought
24 we knew more than we did, and they told the truth. They told
25 the truth about Homicide Squad. They told the truth about Cut

1 Throat. They told the truth about what they knew, at least, of
2 their brother and his friends. And they told the truth about
3 what happened -- what they knew about what happened to Tyrell
4 Davis.

5 MR. NOLDER: Objection, Your Honor, about them telling
6 the truth. He's endorsing the witness.

7 MR. DEVILLERS: I submit that the evidence will show
8 that they told the truth.

9 I want to be clear about something. It doesn't matter
10 what I believe. It doesn't matter if I say they're telling the
11 truth. In fact, I submit to you they are. It's up to you.
12 It's not up to me. You know what? It's inappropriate for me
13 to say that. It's inappropriate for me, as a prosecutor, to
14 say someone is telling the truth. I apologize for it. I
15 shouldn't have done it.

16 THE COURT: Ladies and gentlemen, let the record be
17 clear, the Court sustains Mr. Nolder's objection. Anything
18 that the lawyers say about the law that may conflict with what
19 I instruct you about the law, you are to follow what I say with
20 respect to the instructions about the law. Mr. Devillers will
21 not instruct you about the law in his opening statement,
22 because that would be improper.

23 So, the opening statements are for the purpose of
24 advising the jury of what the lawyers believe their evidence
25 will show. And Mr. Devillers is going to continue to tell you

1 what he believes the government's evidence will show.

2 Please continue, Mr. Devillers.

3 MR. DEVILLERS: Thank you, Your Honor.

4 I'm going to talk to you about a guy named Andre Brown.

5 You're going to hear from Andre Brown. He goes by Paco.

6 Now, during a lot of this, he was arrested. He was
7 locked up. He got out. He got out sometime in 2008. And he
8 got back to what he was doing for the Short North Posse. And he
9 he got back to also associating with Homicide Squad. And he
10 was -- he had a unique capability. He was very good at
11 breaking into things. You're going to hear him testify. He
12 was good at unlocking things. He was good at getting rid of
13 alarms. This is what he was good at.

14 And on July 10, 2008, he, Mr. Harris, Troy Patterson,
15 went to rob a drug dealer by the name of Dydren Cumberlander.
16 Now, Mr. Cumberlander wasn't home at the time, but his wife
17 was. They went in there and held her hostage, had her make
18 some phone calls until Mr. Cumberlander came back. He came
19 back, and they robbed him: Jewelry, cash. Put him down in the
20 basement. Locked the basement. Put a couch under it so they
21 could get away. No one killed.

22 Only a few days later, Chris Harris, Troy Patterson,
23 Paco Andre Brown, a guy by the name of Taron Colvin, and Keith
24 Turner -- these guys kind of ran more with Paco, Turner and
25 Colvin -- they go do a robbery, a guy by the name of Parkay,

1 who was another drug dealer. And this is off of 660 BRK Bay
2 Court, Canal Winchester. He's not home at the time they break
3 in, but his girlfriend is. She is a young lady. They know
4 there is money and drugs in the house. She is not talking
5 about that money and drugs. They put her down, cut her hair,
6 rough her up. That's when Troy Patterson takes that gun and
7 puts it on her vagina and threatens to shoot her. They get
8 money. They get drugs. Parkay comes back during it.

9 Shots are fired. They're on the run. They get into a
10 van, a conversion van, a black one. They take off. The police
11 give chase. The chase goes on for awhile. The van stops.
12 People run from the car. They all run from the car.

13 Troy Patterson, he's caught running. He's a juvenile at
14 the time. From that day forward, he spent the rest of his
15 life, so far, in prison.

16 Chris Harris is caught. Mr. Turner's caught. Paco,
17 Andre Brown, and Mr. Colvin get away. You'll see pictures of
18 that event. There is money and guns all over the place, with
19 them running through neighborhoods. But that starts to be the
20 beginning of the decline of the Homicide Squad.

21 Chris Harris is locked up. He's in prison. So is 40.
22 There's still some people out there. R.J. is out there.
23 Bucc -- Liston's out there. Ledbetter is out there. Ussury is
24 locked up, too, at this time. Earl Williams, E-Dub, is out
25 there. Paco is out there. Black Den, Dennis White, is out

1 there.

2 Then, on September 8th, 2008, a guy by the name of
3 Anthony Hackney, a small-time drug dealer dealing crack
4 cocaine, is selling crack cocaine in the Short. R.J. and Bucc,
5 they see this. He didn't ask permission. He didn't ask
6 permission to sell in the Short. So he had to pay up. He said
7 no. They killed him. R.J. shot him. They ran. Got away.
8 But someone was there, and someone saw it, a guy by the name of
9 Stephan Austin. Goes by Nutty, not to be confused with
10 Al-Nuts, Nutty. It's a Crip, older guy. He'd had enough,
11 though. He talked. He did the one thing you're not supposed
12 to do. He talked. He told the police.

13 Now, as this was going on, R.J. and Bucc were out. They
14 were not locked up yet. They were not arrested for this, but
15 they soon would be.

16 Now, Mr. Ledbetter, his guys are getting locked up. He
17 doesn't have his soldiers, if you will, not as many. But he
18 had some. He still has Earl. He still has Paco, now he's
19 working with. And he's telling them where to rob, where to go.
20 O-Dog's arrested. Troy's arrested. Ussury is gone. But one
21 day, Paco and Earl are driving; and Paco points to a house and
22 says: We should hit that house some day.

23 It's a D-Block house, a drug dealer. Remember D-Block.

24 Now, remember, Paco, he's getting kind of old school.
25 He hasn't been out that long. Doesn't seem to see a problem

1 with that. Earl knows better. Earl knows that, at this time,
2 Troy is dealing with D-Block, with a guy by the name of J.P.,
3 Jermaine Patterson. This is one of J.P.'s houses.

4 Earl tells Brandon about this. Brandon can't have that.
5 Brandon puts a contract out on Paco and some of his people.
6 Earl's got no problem picking up the contract. Earl has no --
7 Earl doesn't like Paco. They've had a history in the past
8 together. He'll do robberies with him, no problem.

9 On September 19, 2008, Earl and his half-brother, a guy
10 named Andre Rayford, go to a house at 2624 East 9th Avenue
11 outside of the Short. This is the spot -- the house of Paco,
12 Taron Colvin, and Chad Ayers, guys that they do robberies with.

13 Now, he goes there. And if he has the opportunity, he's
14 going to kill these guys; same with his half-brother. Now,
15 he's going to come in and testify. And he's going to say that
16 he wasn't necessarily going to do it that day; but if he had
17 the opportunity, he intended to.

18 Well, that house is full of guns. That house is full of
19 ammo. You're going to see pictures. And, at one point, Paco
20 goes out to show Earl some stolen hubcaps in the garage behind
21 them.

22 Now, what happens next? They draw down on each other.
23 Who draws first? I don't know. You're going to hear from both
24 of them. They both suspect each other. Earl will tell you
25 right now he was there; he would have killed him.

1 They start shooting at each other. Earl's got a
2 semiautomatic. Paco's got a revolver. They riddle each other.
3 They both collapse. Earl wakes up first. He sees Colvin, or
4 Ayers -- I forget which -- laying next to him, shot. He thinks
5 he's going to get up and shoot him. He shoots at Colvin and
6 Ayers, or Colvin. A bullet goes through him.

7 Now Paco is waking up. They don't know where Mr. Ayers
8 is. They don't know where Andre Rayford is. They're around
9 somewhere. They again start shooting each other. They run.
10 Paco, Mr. Brown, runs in the house, gets another gun.

11 Now, Earl, he does get two guns. One, he fired so far,
12 but he is shot badly.

13 Paco is shot badly. He runs to a dumpster. He's
14 burning. They're so close, his clothes are burning. Throws
15 his clothes in the dumpster. Paco goes to get a big gun. He
16 comes out looking for him.

17 Paco is about to collapse. Earl sees him, but he hides.
18 He knows, I'm not going to win with that big gun. Throws his
19 guns down. Paco goes to his side, throws his revolver in a
20 dumpster, collapses.

21 Earl walks down the street, trying to get to a fire
22 station. He collapses.

23 You'll see a video of this. There is a surveillance
24 camera.

25 Cops come, get them both. Earl doesn't wake up for a

1 very long time. Paco wakes up relatively soon. Mr. Ayers and
2 Mr. Colvin are dead. Their bodies are shot. They're riddled.
3 Bullets are taken from their body.

4 Now, the strange part is, the bullets taken from their
5 body do not match any of the guns, any of the two guns taken
6 from Earl Williams or the revolver taken from Paco. Paco had
7 no reason to shoot him. He's their associate, but -- Andre
8 Rayford gets away.

9 Now, unless Andre Rayford had two guns and shot them
10 both with two guns, someone else showed up that night. You're
11 going to see a video of some people there that night that
12 weren't Earl or Colvin or Ayers or Paco. You're going to hear
13 what Mr. Andre Brown has to say about that, Paco.

14 Now Brandon has a big problem. Earl wasn't successful.
15 Paco now clearly suspects that Brandon was trying to kill him
16 because Earl is his boy. He's got some loose ends. Earl is
17 caught redhanded. He's dying in a hospital. If he doesn't
18 die, he's a loose end.

19 Earl doesn't die. Earl eventually cops a plea with the
20 State of Ohio, really good deal. He gets ten -- eight years.
21 He's responsible -- even if he's not the shooter of Colvin and
22 Ayers, he's responsible for their deaths legally.

23 You might not like it, but we honored that. He's going
24 to come in pursuant to that plea agreement and testify.

25 He also told Pickerington Police, before we got

1 involved, about the Tyrell Davis murder. A deal was cut. We
2 are honoring that deal. He's been involved in a lot of
3 murders, a lot of shootings. You can use that to judge his
4 credibility. We're just asking that you listen.

5 Now, the fall of 2008, Bucc and R.J. finally get
6 arrested and locked up for their involvement in the Hackney
7 murder.

8 So, now everyone is gone. Harris is locked up. Ussury
9 is locked up. Patterson's locked up. R.J., Bucc, E-Dub is
10 locked up in a threat, and even Paco is locked up.

11 Tony Jones, Homicide Squad guy, he's all alone, too. I
12 can tell you, before he found a new crew, he got jammed up and
13 shot himself.

14 Now Ledbetter's got a lot of problems. He's still out
15 there, and the problems get worse.

16 He's got girl problems. He's got two women. Crystal
17 Fyffe is one of them. Crystal Fyffe, she's helped him out.
18 She's helped him out getting rid of evidence. She's helped him
19 out in getting to the murder scene of Rodriccos Williams.
20 Helped him out in some drug stuff. And she is not happy. She
21 knows about Tiffany Berry and his life with her. But she
22 doesn't want a third woman, and she suspects him of that. So,
23 she wants to break up with him.

24 So, what's Brandon do? Well, he takes her to the
25 garage, ties her up, and shoots her. That's what you're

1 supposed to do. Right? Well, that's what he does. She moves
2 the gun out of her face. Shoots her in the hand.

3 He kind of calms down. Takes her to the hospital.
4 Tells her to say, oh, it was a robbery or something. She does.
5 Does whatever the guy says. This happened some more.

6 Brandon at the time is kind of -- kind of losing it,
7 quite frankly. He gets caught with a gun in September of 2010.
8 He's got a blue Chevy Impala, beautiful, old-fashioned car, a
9 classic. It's in Crystal Fyffe's name. He's got a gun on him.
10 Someone reports seeing a guy with a gun. Cops give chase. The
11 chase goes. He crashes right down here, a few blocks from
12 here, gets out of the car, throws the gun, runs.

13 Crystal owns that car. They bring that car to Crystal.
14 She says it's stolen. You're going to see some texts about
15 them talking about that.

16 Only about a couple months later, he's down here near
17 the North Market, out one night. Gets into some sort of
18 dispute. There is a shooting that it doesn't appear he has
19 anything to do with, but he is in a dispute with somebody else.
20 Cops go to the scene. They see him kind of in a fight with
21 somebody, then walking away. They go to stop him. He doesn't
22 stop. Gets in his car. The cops say: Stop. Almost runs over
23 the cop. Gets out of the way. Breaks through some barriers.
24 Chase is on.

25 The chase goes up and down. It's wintertime. As he's

1 coming down the Goodale area, he tosses a gun outside a window,
2 out of his window, on High and Goodale. They finally pit him
3 and pull him over and arrest him. The gun is found on the
4 street.

5 But it's not over for Brandon. Mr. Ledbetter has
6 connections outside of town. We talked about that.
7 Mr. Ledbetter has big connections. And one of those
8 connections came through in the form of about a thousand pounds
9 of marijuana. It's coming in from the south. The DEA gets
10 wind of it. They're going to go ahead and find out who they're
11 delivering it to. They deliver it to Brandon Ledbetter. He's
12 there to collect it.

13 He's arrested. Federal charges. He's eventually locked
14 up. Forty thousand dollars in cash is at Crystal Fyffe's
15 house. DEA knows it. They go to it. She gives the cash.
16 This makes Brandon very angry.

17 Now it gets worse. Now he knows about E-Dub. Now
18 Pickerington is sniffing around. Now Pickerington wants to
19 talk to Crystal Fyffe. Crystal Fyffe knows about his drug
20 dealing. She had the \$40,000 she gave to the DEA. She knows
21 about the Alan Johnson murder, because Ledbetter had him killed
22 because he killed Elijah, Ledbetter's brother. She knows about
23 that. She knows about the Rodriccos Williams murder. She is
24 the one that gave him directions. It's a loose end.

25 Before this, in 2010, just before, as things are

1 starting to fall apart, there's texts between Mr. Ledbetter and
2 Ms. Fyffe. And you're going to see those texts. When Ms.
3 Fyffe was killed -- you'll find out she was -- there were two
4 phones found underneath her. And in those phones, forensics
5 were able to pull out text messages. This is only a year
6 before, that these texts came out. And in 2010, the fall of
7 2010, there is a text between Mr. Ledbetter and Ms. Fyffe about
8 that car.

9 Remember the blue car? That's at her house during this
10 text. He is worried. Doesn't want anyone to find out about
11 the gun. Clearly worried about the murders committed. And he
12 text her this: Fuck it. Tell those mother fuckers that I was
13 driving and that was my strap. Tell them mother fuckers
14 everything to get me the fucking chair since mother fucker's
15 got to tell.

16 She responds: I'm not telling them anything. It's
17 totaled out. It will be out there in a few days. Kill me.
18 Then you won't have to worry about fucking with me and fear of
19 me telling.

20 Now, at the same time, he's afraid she is going to leave
21 because she sees him -- a friend of hers sees him -- two of her
22 friends -- with another woman.

23 Texts continue. He texts her: Well, mother fuckers who
24 lie together can die together. Fuck all. I got the answer to
25 all this bullshit. Hood love. Playa prices. Ten stizzles.

1 Two for one.

2 She responds: I told you that you might -- I told you
3 that you might as well kill me, too. I'm not protecting
4 anyone.

5 Same group of texts. It goes on: Okay.

6 He texts back: Have it your way. You go, too.

7 She texts back: Make sure you finish what you start.

8 He shot her before. He made up for it. After he shot
9 her, he took her on vacation to Hawaii.

10 Make sure you finish what you start. Don't have it
11 done. I'll be sure to leave Cysia -- her daughter -- at my
12 mom's so I won't be a bad mother for letting her see it.

13 She predicts her own death, because that's exactly what
14 happens. He has it done, and Cysia finds her.

15 You're going to hear about Ms. Palmer -- Steven Palmer.
16 He is the attorney for Ms. Fyffe. Police want to talk to Ms.
17 Fyffe about his drug dealing, about the Pickerington murder.
18 She is terrified. She tells him she is terrified. She tells
19 him, if she talks, she'll die. She even gives them a list of
20 people she needs to be worried about, people that Brandon told
21 her about.

22 Yeah, the regular crew is on there: O-Dog, R.J. --
23 they're all on the list -- D Frog.

24 Another person is on the list: Santa Claus. The
25 person's name is Santa Claus, someone that she says Brandon

1 knows and that she needs to be worried about.

2 Now, she does talk about -- meets with Pickerington,
3 meets with Steve Palmer quite a bit, goes to proffer. She is
4 not really convinced that they are going to be able to protect
5 her. This is Pickerington Police Department. It's a small
6 police department, small resources. She tells them some
7 things. And as they're leaving that proffer -- A proffer is an
8 off-the-record conversation with an attorney there to protect
9 your rights. As she's leaving the proffer, she tells Steve
10 Palmer about letters she's getting from Brandon, who is now
11 locked up, not to talk. You're going to see one of these
12 letters. And in July of 2011, this letter is written to
13 Crystal Fyffe:

14 This shit is crazy as fuck. I would've thought in a
15 million years that you would throw me to the wolves. I would
16 have bet my last dollar that if nobody else in the world would
17 be in my corner, that would be you, that you would -- that you
18 would. Whoa, was I wrong. I haven't heard one word from your
19 ass since I've been here and not one damn positive thing about
20 you. I don't need to go into details because what's understood
21 don't need to be explained. I guess I should have known
22 better.

23 The letter goes on: There is the words you choose to
24 let leave your lips to certain individuals really has me at a
25 loss for words. Wow! God knows if I knew you were going to

1 abandon ship like that on some cold-blooded shit, then I would
2 have made certain preparations for this. Also, before you know
3 it, Santa Claus will be coming to town. And I hope you and
4 Cysia get everything she wants and then some. Also, I hope you
5 get all the things you asked for as well. I'm sure not happy
6 that I won't get to see these days in person.

7 This letter is written in July.

8 On the evening of October 19th, 2011, Ms. Fyffe is
9 having an evening at her house. Her mother is there. Her
10 daughter, Cysia, is there. She gets a coupon for pizza. She
11 goes out to get it. She is walking back to the house. Her
12 mother and her daughter are in the house. Gets to about the
13 steps. Someone goes up behind her and shoots her once in the
14 back of the head. They don't steal anything. They don't rob
15 anything. They don't take anything. It's an assassination.
16 They kill her. Her mom and Cysia run out and find her.

17 You're going to hear testimony that not only did Brandon
18 Ledbetter plan this, he wanted people to know that he did it.
19 You're going to hear people say that he was bragging about
20 having it done.

21 These guys are all locked up at this point, 2011, 2012,
22 2013. But the murders don't stop, 'cause the one guy, the one
23 guy that would testify against these guys, the one guy that
24 talked to the cops, the one guy that had enough, enough even
25 though he was a Crip and he was from the Short, was on his

1 porch July 4th, 2013. And it finally caught up to him. From
2 about 70 feet away, he was shot and killed.

3 You're going to hear testimony that big R.J., Robert
4 Liston, another individual, were involved in that. You're
5 going to hear phone calls of how giddy, of how happy these guys
6 are about what happened, how joyful they are that the person
7 that dared testify against them, dared testify against Homicide
8 Squad, dared testify against Short North Posse is now dead.
9 You're going to hear O-Dog screaming at his girlfriend, who is,
10 in reality, close to a stepdaughter to Austin, about how happy
11 he is what happened and how that guy is lucky that Homo didn't
12 have anything to do with it or wasn't out for him. That's the
13 evidence you're going to hear.

14 Ladies and gentlemen, there are a lot of elements that I
15 was going to go over with you. I'm not going to. The Judge is
16 going to do that.

17 Before I sit down, I want to talk a little bit about the
18 people who are going to come in to testify. Yep, a lot of them
19 got deals. A lot of them are murderers. We've got convicted
20 rapists coming in. And it's going to be argued, and should be
21 argued, they should be seen, their testimony, with great
22 scrutiny. Yeah, of course, absolutely. But we ask you to
23 listen to what they say. Dissect everything they say, every
24 word. Ask yourself: Does it make sense? Is it corroborated?
25 Is it corroborated by their own statements, other witnesses'

1 statements? Is it corroborated by the defendants' statements?
2 Is it corroborated by the physical evidence? By the phone
3 records? By these jail calls? Dissect everything they say.

4 Before I sit down, know this: That five defense
5 attorneys are going to be able to get up. They don't have to.
6 It's not their burden of proof. It's mine. And they're going
7 to be able to give opening statements. And when we ask
8 questions to a witness, five defense attorneys will have the
9 opportunity, if they so choose -- they don't have to -- to
10 cross-examine. This goes on throughout the trial.

11 This isn't an election. It isn't the questions being
12 asked that's evidence. The opening statements, my opening
13 statement, isn't evidence. Hold me to what I said in opening
14 statement. Hold me to proving it. Hold us to proving each and
15 every one of these things. It's our burden of proof. It's
16 proof beyond a reasonable doubt.

17 Reasonable doubt is based on reason and common sense.
18 We want you to come into this courtroom with a clean slate, no
19 prejudice against the defendants or the government. But we
20 don't want you to come in here with a blank slate. We don't
21 want you to come in here forgetting all your life experiences.
22 We want you to use them.

23 You're not a computer. You're humans. That's what we
24 want. That's what we rely on. Hold onto your common sense.

25 MR. BERNDT: Your Honor --

1 THE COURT: Sustained.

2 MR. BERNDT: Thank you.

3 MR. DEVILLERS: Ladies and gentlemen, hold us to our
4 proof, beyond a reasonable doubt. And I'm confident, if you do
5 that, you're going to find each and every defendant guilty of
6 each and every crime beyond a reasonable doubt.

7 Thank you.

8 THE COURT: Thank you, Mr. Devillers.

9 It is -- well, ladies and gentlemen, beginning with,
10 "But we don't want you to come in here with a blank slate. We
11 don't want you to come in here forgetting all of your life
12 experiences. We want you to use them. You're not a computer.
13 You're humans. That's what we want. That's what we rely on.
14 Hold onto your common sense," all of that, ladies and
15 gentlemen, is to be disregarded by you. And you're not to
16 consider it. It has nothing to do with the facts of this case.
17 It is argumentative. It would be appropriate in closing
18 arguments, but not in opening statements. Otherwise, you may
19 rely on, and you don't have to disregard, the other things that
20 were said by Mr. Devillers in the opening statement.

21 At this time, ladies and gentlemen, we're going to
22 adjourn for lunch. It is 12:12 by the Court's computer. The
23 clock is two minutes slow. Perhaps when you return, it won't
24 be that way. We'll get someone to give us those additional two
25 minutes.

1 Enjoy your lunch, ladies and gentlemen. We will resume
2 in an hour, at 1:15, where we will have opening statements from
3 defense counsel should they choose to give them.

4 Remember the Court's admonitions, ladies and gentlemen.

5 (Jury out at 12:12 p.m.)

6 THE COURT: Are there any matters we need to take up
7 from the government, Mr. DeVillers, before we break for lunch?

8 MR. DEVILLERS: No, Your Honor.

9 MR. BERNDT: Not on behalf of Mr. Ledbetter, Your
10 Honor. Thank you.

11 THE COURT: From any of the other defendants?

12 MR. NOLDER: No, not on behalf of Mr. Robinson, Your
13 Honor.

14 MS. DIXON: Not on behalf of Mr. Liston, Your Honor.

15 MR. MEYERS: No, Your Honor.

16 MR. DURKIN: No, Your Honor.

17 THE COURT: Enjoy your lunch, everyone.

18 (Lunch recess at 12:13 p.m. to 1:15 p.m.)

19 - - -

20 MONDAY AFTERNOON SESSION

21 APRIL 11, 2016

22 - - -

23 (Jury in at 1:14 p.m.)

24 THE COURT: Mr. Berndt.

25 MR. BERNDT: Yes, Your Honor.

1 THE COURT: Will you be giving an opening on behalf of
2 Mr. Ledbetter?

3 MR. BERNDT: I will, Your Honor.

4 THE COURT: Thank you. Please proceed.

5 MR. BERNDT: Your Honor, counsel, ladies and gentlemen
6 of the jury. My name is Jeff Berndt. I, along with Aaron
7 Durden, represent Robert Ledbetter. Gentlemen, will you please
8 stand?

9 I had them stand because I want you to understand that
10 Mr. Durden and I represent Mr. Ledbetter and only
11 Mr. Ledbetter.

12 I also think it's nice for you to understand that it's
13 Mr. Ledbetter's birthday today. He is 37 years old as of
14 today's date. Thank you.

15 I sat in this courtroom all last week and watched the
16 process that I thought was very educational and I thought was
17 very telling in a lot of respects. And I want to thank you
18 folks for going through that process and agreeing to sit as
19 jurors on this case.

20 I think there were some people that didn't want to be
21 here. I think that there were some people that were afraid of
22 being here for a number of reasons and I think that what we
23 went through over four days got us a jury that's going to be
24 fair and impartial for all parties, the government and
25 Mr. Ledbetter. And I thank you for that.

1 I do have some concerns which I think are basically
2 allied but we do have a big case here. It's a big production
3 and it's very complicated. For instance, I just talked to you
4 about that I simply represent Robert Brandon Ledbetter, not
5 anybody else in this case. And I will be arguing for
6 Mr. Ledbetter, not anybody else in this case.

7 The defenses may be the same on certain counts. The
8 defenses may be different. But what I need for everybody to do
9 is to carefully listen to the evidence as it applies to
10 Mr. Ledbetter and, in my selfish world, only Mr. Ledbetter in
11 determining the charges that he faces in this courtroom.

12 We've got a lot of counts, a lot of Defendants. We also
13 have very difficult subject matter. It's very obvious that
14 this case involves violent crime, and on some level I agree
15 with Mr. DeVillers that it's not so much of what happened.
16 It's more of a challenge to determine who's responsible for
17 what happened. But you will be seeing and hearing testimony
18 and evidence regarding murders and other very serious felonies.

19 What we have to do is set our emotions aside and decide
20 this case from the witness chair. For instance, Mr. DeVillers
21 spoke for almost three hours this morning. None of which was
22 evidence. Not a single word that Mr. DeVillers spoke to you
23 today does anything to pierce the presumption of innocence that
24 Robert Ledbetter is entitled to during the course of this case.

25 To go one step further, nothing that I say is evidence

1 in this case. We will finally get to the evidence tomorrow
2 morning and it will come from that chair. And I'm confident
3 after last week that we all understand that's where it comes
4 from. I'm confident that you'll keep your blinders on and I'm
5 confident that you will uphold your oath as jurors in deciding
6 this case.

7 Folks, I can tell you what Mr. Ledbetter's defense to
8 the charges against him is and I can tell it to you very
9 simply. We intend to challenge every witness, every piece of
10 evidence that comes into this courtroom that is supposed to
11 support a case against Mr. Ledbetter and we intend to show you
12 why that evidence has some type of deficiency, defect or the
13 lack of relevance to Mr. Ledbetter.

14 This will be through, primarily through
15 cross-examination of the witnesses and, as in any criminal
16 case, you will learn that what this case is about, it's about
17 whether these gentlemen who sit here at the government's table
18 can prove to you beyond a reasonable doubt each and every
19 element of each offense which Mr. Ledbetter faces in this
20 courtroom. It's what it's about. It's a question of proof,
21 period. And of course we all now know that that proof must
22 rise to the level of proof beyond a reasonable doubt before it
23 can support a conviction.

24 Mr. Ledbetter is charged in Count 1 of the Superseding
25 Indictment, it's called racketeering conspiracy. Essentially

1 Mr. Ledbetter is accused of being a member of a criminal
2 organization called the Short North Posse, that he engaged in
3 and participated in conduct that was committed by members of
4 the Short North Posse for a common purpose of the Short North
5 Posse.

6 What the evidence is going to show is that, as I
7 previously stated, Mr. Ledbetter is 37 years of age as of
8 today's date. He was born, I'm going to say it was in the
9 Short North, might be slightly outside of the Short North but
10 maybe by a block or two. And he lived at or near the Short
11 North until he was 15 years of age. That would be 1994.

12 The evidence will show that in 1994, Mr. Ledbetter was
13 adopted by a mother of a friend of his and moved from the Short
14 North never to live in the Short North again. 1994.
15 Twenty-two years ago.

16 The evidence will also show that Robert knows people
17 from the Short North. I think that you probably noticed during
18 the jury selection process that Mr. Ledbetter knows Mr. Ussury
19 and that he knows Mr. Liston and that he knows Mr. Harris. The
20 evidence will show that he knows these people through growing
21 up until he was 15 in the Short North, not through being
22 engaged with these people in a criminal conspiracy to commit
23 violent crimes.

24 The first question for you folks is whether or not an
25 organization even exists and we'll leave that to the evidence

1 for you to determine whether or not you believe that there were
2 people who acted in concert to agree to commit violent crimes
3 together. The most important element that we will be looking
4 at in regard to this enterprise in Count 1 will be whether or
5 not Mr. Ledbetter was a member of the Short North Posse. And I
6 believe that the evidence will show to you through government
7 witnesses that the answer to that question is no.

8 Mr. Ledbetter -- What happens in these cases is when
9 people are investigated for this type of activity, there are
10 various detectives that go out, surveil people, look at people,
11 drive through various neighborhoods, take pictures,
12 photographs, go to certain nightclubs that supposedly these
13 people hang around in and they investigate to see who's
14 involved with who. And they put together various packages,
15 they put together the various evidence to identify people that
16 they call documented gang members. That list won't include
17 Robert Ledbetter.

18 The government witnesses will also tell you that Robert
19 Ledbetter was not a member of any of the subsets of the Short
20 North Posse; that being either the Cut Throat Committee or the
21 Homicide Squad.

22 There won't be pictures of Mr. Ledbetter flashing gang
23 signs. There won't be pictures of Mr. Ledbetter holding up big
24 sums of money. There won't be pictures of Mr. Ledbetter
25 driving fancy cars. There won't be pictures of Mr. Ledbetter

1 that you would commonly associate with that type of activity.

2 The reason is, is because, again, he wasn't a member of
3 the Short North Posse. Robert had a job that he worked since
4 2003 up until his arrest for the marijuana case referenced by
5 Mr. DeVillers in 2011. Same job; eight years. Full-time job.
6 There will be evidence that Mr. Ledbetter paid taxes against
7 the wages earned at those jobs.

8 There will be a lot of talk and testimony about various
9 street crimes, some of which were referenced by Mr. DeVillers
10 in his opening. Street crimes involving shooting at police,
11 hassling merchants, knocking off small drug dealers, these
12 types of things. Again, those incidents will not include
13 Mr. Ledbetter. And the reason is, again, that Mr. Ledbetter
14 was not a member of the Short North Posse if the Short North
15 Posse existed as an enterprise.

16 Now, I don't want you to think that I'm overstating my
17 case with Mr. Ledbetter because Mr. Ledbetter is no angel.
18 There's no question about it that he's been in trouble with the
19 law and there's no question that he has been involved in
20 illegal drug activity. That, we admit.

21 In fact, when Mr. DeVillers spoke of the marijuana
22 arrest in 2011, that was actually not 1,000 pounds of
23 marijuana, it was 2,000 pounds of marijuana. It was a huge
24 drug deal. It had nothing to do with the Short North Posse.
25 It did have everything to do with Mr. Ledbetter. And the drug

1 deal had an approximate value of \$2 million which Mr. Ledbetter
2 was arrested and charged and convicted in that case. And
3 you'll hear about that in this case.

4 What's important about that case is that you'll never
5 hear that that situation involving the large amount of
6 marijuana had a thing to do with the Short North, the Short
7 North Posse, the Cut Throat Committee, the Homicide Squad. And
8 what Judge Marbley will instruct you at the end of this case is
9 that if Mr. Ledbetter was not a member of the Short North
10 Posse, was not associated with the Short North Posse, that none
11 of the crimes charged in Count 1 are his responsibility. You
12 have to be a member of the group in order to be responsible for
13 the group activity.

14 Mr. Ledbetter, again, no angel, was involved in very
15 significant drug activity. Not knocking somebody off for
16 \$5,000 and two pounds of pot. Not knocking even somebody off
17 for \$50,000 and ten pounds of pot. \$2 million of marijuana he
18 was caught with. I believe it was May 12, 2011. Keep it in
19 mind.

20 Mr. DeVillers also mentioned something else in opening
21 statement that I think is also attributed to Mr. Ledbetter not
22 being part of the Short North Posse and I believe that the
23 evidence will show that all of these actions that other people
24 may or may not have taken in regard to the Short North Posse in
25 regard to this case were really not things that forwarded

1 Mr. Ledbetter's agenda as a drug dealer.

2 Mr. DeVillers told you that the war with D-Block was
3 something that Mr. Ledbetter tried to quell because he did
4 business with D-Block; business that in his mind totally
5 superseded whatever these kids were doing in the Short North in
6 the street crime in the knock out gang, in the robbery gang.
7 So what I'm telling you is, is that Mr. Ledbetter's interests
8 were not furthered by other people who the government believes
9 were committing these street crimes as the Short North Posse.
10 Again, if the Short North Posse existed.

11 So the government's own witnesses will exclude
12 Mr. Ledbetter from being associated with a member doing
13 business with the Short North Posse. He's not a gang member.
14 He's definitely not a murderer.

15 Robert is also charged in this Indictment outside of
16 Count 1 with eight other counts. The eight other counts
17 involve four murders. Alan Johnson, Marschell Brumfield,
18 Rodriccos Williams and Crystal Fyffe. I'm going to try to lay
19 out what I anticipate the evidence to be in those cases and ask
20 you to keep these guidelines in mind.

21 Alan Johnson was killed April 16th, 2006. It's almost
22 ten years to the day as to where we're at right now. And what
23 happened was -- what happens in that kind of situation is there
24 are all kinds of practical problems with trying to solve a
25 ten-year old case; problems which will bear on the evidence in

1 this case, the strength of the evidence, the quality of the
2 evidence, but the ten-year-old case is something that you folks
3 should take into consideration when you evaluate people's
4 memories, people's statements about these incidences.

5 In any event, Alan Johnson is killed in an apartment on
6 the east side of Columbus, I think the name of the street is
7 Hallworth and he's killed in the presence of a person named
8 China Hester. China Hester's four-year-old child was also in
9 this room, and he was killed by gunfire. China Hester
10 immediately identifies an assailant the night that this
11 occurred. If it's the night, the next night. And the police
12 are there, the police run an investigation, she makes a
13 statement, she identifies an assailant and, frankly, by about
14 December of 2006, the case just drops off the radar. This
15 person that was identified by China Hester is not indicted.
16 The information that I've been given to prepare for this case
17 doesn't indicate that a lot happened with the case after 2006
18 until 2013.

19 So about seven years later, somebody who gets himself
20 into so much trouble that he doesn't want to spend the rest of
21 his life in prison decides that he's caused so much trouble and
22 he's run the cash register up so high in regard to his
23 responsibilities that he wants to talk to the police about
24 things that he says he knows. And one of the things that this
25 gentleman says that he knows, and I'll use air quotes for

1 gentleman, is that somehow Robert Ledbetter was involved in the
2 killing of Alan Johnson. And he bases this theory, and it's a
3 viable theory, that Alan Johnson killed Robert's brother.
4 Robert's brother, Elijah Ledbetter, sometimes they call him
5 White Boy Tone.

6 Alan Johnson kills Elijah. And Elijah was running in
7 the streets. Elijah was somebody that had people who cared for
8 him. And the theory that somebody may go out and try to avenge
9 the death of their brother is a theory that I think everybody
10 can understand. It's also a theory, though, that's not
11 supported by evidence. And certainly not supported by quality
12 evidence.

13 First of all, there were at least a half a dozen people
14 who were closer to Elijah Ledbetter who were running the
15 streets of the Short North who were looking for Alan Johnson
16 after Elijah was murdered. There have been three or four
17 different stories as to how Elijah's death was avenged. Three
18 or four different stories given to the police as to who killed
19 Alan Johnson. And then this confidential, I guess you call him
20 a confidential informant, he's a gentleman who's looking at
21 huge charges, he goes ahead and he says, I want to talk to the
22 government, and he tells the government things.

23 Specifically in regard to Alan Johnson, he tells the
24 government that Robert Ledbetter was there, that Robert
25 Ledbetter found out where Alan Johnson was and that Robert

1 Ledbetter participated in the murder. And for that, among
2 other things, he goes from life in prison to ten years just
3 like that (snapped fingers) just by saying it.

4 He doesn't say, I know where the gun is. He doesn't
5 say, I know what kind of car was driven. He doesn't say, I've
6 got specifics, I've got physical evidence, I've got phone
7 calls, I've got whatever I have. He says, it just happened.
8 And this person, and I'll leave it to you, will be vetted in
9 regard to his background, will be vetted in regard to his
10 ability to tell the truth and will be vetted as to the
11 circumstances to why he would make that statement.

12 And while these plea agreements are allowable, while the
13 government is allowed to choose who they offer a deal to, under
14 whatever circumstances they offer that deal, they're not always
15 a good idea. And you're going to find out in Alan Johnson's
16 case that it wasn't a very good idea. Because the person who
17 came to the table who told the government that he was done
18 committing crimes, that he wanted to start changing jerseys,
19 come over to the other side, he didn't tell them the truth.
20 And he let them sit on incomplete information for two years
21 after he struck his deal.

22 While motive is always relevant, it's not an element of
23 a criminal offense. You'll never hear Judge Marbley say,
24 consider Robert Ledbetter's motivation under these
25 circumstances in determining his guilt. It's not an element.

1 What is important is the level of proof. And what you have is
2 a ten-year-old murder. You have no physical evidence
3 supporting Robert Ledbetter's involvement in the murder. You
4 have a case that lied dormant for nine-and-a-half years; that
5 went from we can't even charge anybody to, we think it's proof
6 beyond a reasonable doubt based upon these uncorroborated
7 statements of somebody that you wouldn't trust in broad
8 daylight.

9 Marschell Brumfield. Tragically murdered April 22nd,
10 2007. I say it's a tragedy because it is. He could have been
11 a criminal. He could have been a drug dealer. He could have
12 been anything, but he was murdered. No question about it.

13 North side of Columbus. Police investigation. The
14 information that I have about this case, I think the evidence
15 will show that the person approached his house, was approached
16 by three or four unidentified male blacks, there was a
17 struggle, there were gunshots. The victim was supposedly
18 swinging at the assailants.

19 The police came to the scene. There were a lot of
20 legitimate people at the scene. People who were living at this
21 apartment complex. They really didn't see anything. It's
22 dark. People dressed in black. No lights. They couldn't
23 identify anybody outside of three to four male blacks.

24 There were some people there who were at the scene who,
25 at least my intuition is saying, weren't so uninvolved but they

1 were totally uncooperative. They didn't tell the police
2 anything, if they knew anything that would forward an
3 investigation. So basically after a canvas and after speaking
4 to these uncooperative people, no search warrants, no photo
5 arrays, no guns found, no physical evidence, no vehicles, no
6 nothing.

7 Until February 24th, 2015 where another one of these
8 fine human beings decides that he's done killing people, he's
9 done raping people, he's done breaking into people's houses,
10 he's actually a defendant in this case and he says, Ledbetter
11 was involved. That's it. No corroboration. No support. But
12 he's going to say it.

13 Nothing is going to physically connect Mr. Ledbetter to
14 that crime except this gentleman's voice. And this is a voice
15 that you will not trust. This is a voice that you will not
16 like. And I want to make a point here that when you present a
17 witness, you're presenting a witness in a federal criminal
18 trial and you're asking for a jury to listen to that witness,
19 just like Mr. DeVillers said. Listening is one thing. Your
20 job is also to assign weight to their testimony. And your job
21 is also to use the tools that you have in your day-to-day
22 affairs to assign weight to that testimony.

23 And when you get the backdrop, the back story on this
24 gentleman, I think that you'll agree to me that his testimony
25 is not worthy of belief; that his testimony is not worthy of

1 belief even if it's consistent with other aspects of the
2 evidence simply because it took him ten years to come forward
3 hearing who knows how many stories out on the street about who
4 knows what and he comes in and his totally uncorroborated
5 statement takes that case from, we can't even charge somebody
6 because we don't have probable cause, to it's proof beyond a
7 reasonable doubt. It's not. I think you'll agree at the end
8 of the case.

9 November 3rd, 2007. Eight years ago. Marijuana dealer
10 by the name of Rodriccos Williams was killed outside of his
11 house in Pickerington. The evidence will show that
12 Mr. Ledbetter did know Rodriccos's wife. I think the evidence
13 will show that they may have had a little bit more of a
14 relationship than what everybody has agreed to so far but we'll
15 see what Ms. Boyce says when she testifies.

16 But in any event, Robert was friends with this lady.
17 Robert didn't know her husband. I think he had spoken to him
18 once and I think that Ms. Boyce will tell you that. And I
19 think that Ms. Boyce will also tell you that her husband was
20 not a big drug dealer; that maybe in the past he was but as a
21 condition of her marrying him that he had to stop and so he
22 only dealt in small portions of marijuana. The type of thing
23 that doesn't bring that much money.

24 The person -- So this crime is committed, and again,
25 much like the other crimes, it goes unsolved. And this was

1 from 2007. What happens is, is that, there's, again, a police
2 investigation, the Pickerington police come out, they do the
3 canvas, they talk to everybody involved in the case and
4 basically they have no suspects. Until this gentleman named
5 E-Dub, I think his name is Earl Williams, he gets involved in a
6 double homicide and a felonious assault. He almost dies from
7 his own wounds and he sits in jail, the county jail, for two
8 years trying to cut a deal in this case.

9 Earl's had some problems in the past of same or similar
10 so the deals are few and far between. But after two years he
11 makes a deal with Franklin County to give information about
12 cases in order to eliminate his criminal exposure. The one
13 case that he was in jail on, one murder, two murders, a
14 felonious assault, two life sentences plus eleven years. The
15 Rodriccos Williams murder, of which he gives evidence of,
16 testimony of, another life sentence.

17 This gentleman, Mr. Williams, was offered a deal where
18 they would forget about his murderous past, they would forget
19 about all the crimes that they know he committed, and they
20 offered him eight years incarceration minus the two years that
21 he had spent in jail structuring his deal for this information.
22 Think about the motivation. Think about what that would mean
23 to a person looking at spending their next three lifetimes in
24 prison.

25 So what Mr. Williams says is he says that Ledbetter set

1 it up. He said that Ledbetter set it up because he knows this
2 girl and because this is what Ledbetter does, he robs these big
3 drug dealers, yadda, yadda, yadda. What's interesting, though,
4 is that Earl Williams knew Rodriccos Williams. Earl Williams
5 knew people that knew Rodriccos Williams way better than
6 Mr. Ledbetter knew Rodriccos Williams. And the evidence in
7 this case will show you that Earl Williams had all of the
8 capability to carry out the Rodriccos Williams home invasion
9 and subsequent murder without anybody's help.

10 In fact, Earl Williams is the person that went in. Earl
11 Williams is the person that went up the stairs. Earl Williams
12 is the person that held a gun to Latonya Boyce's head while her
13 child was lying by a bed crying. Earl Williams said, give me
14 the money or I'll kill you. Earl Williams took the money and
15 left. No question. Latonya Boyce can tell you that. Earl
16 Williams is going to tell you that. He did the crime.

17 These three homicides, Alan Johnson, Marschell
18 Brumfield, Rodriccos Williams, are three incredible tragedies.
19 They're murders. No question about it.

20 My problem with Mr. Ledbetter being held responsible for
21 these murders under any theory is that what really supposedly
22 links him to the crime is the mouth of somebody that you would
23 never, ever believe, ever. Even in your most petty of affairs
24 as opposed to your most serious of affairs. Never.

25 That's the link between Robert Ledbetter and those three

1 homicides. Three people who have nothing but motivation to
2 make it up. And three people whose stories are, if any,
3 marginally corroborated by other evidence and that other
4 evidence is certainly something that any one of these three
5 people could have thought they learned from the street during
6 the eight, nine, ten year time period that these matters were
7 lying out there like a field that wasn't being planted.

8 The final charge against Robert Ledbetter is he's
9 charged with murdering a witness. He's charged with killing
10 somebody, being responsible for the death of somebody who is
11 supposed to be testifying against him or providing the
12 government with information about him. And that person's name
13 is Crystal Fyffe. And I want you folks to understand that
14 Crystal Fyffe's murder is incredibly tragic. She was killed in
15 front of her house. I think it was her mom's house but I think
16 she lived there for the most part. And she was killed with her
17 mom and her daughter close by. And it's painful, very painful.
18 And very ugly.

19 But this is also where what we have to do in fairness to
20 your oath as jurors and in fairness to Mr. Ledbetter and his
21 trial rights, and in fairness to the sanctity of this Court, I
22 have to implore you to set aside that emotion and really look
23 at what you have here and really look at what evidence there is
24 to support this theory that Mr. Ledbetter had this person
25 killed because he thought she was cooperating against him.

1 Because when you look at that, you will find that there
2 is virtually nothing. There's not a gun. There's not an
3 assailant. There's not a getaway car. Nobody has been charged
4 with actually committing the murder firsthand. Mr. Ledbetter
5 was incarcerated on March -- I'm sorry, May 12 of 2011 when he
6 got caught with the \$2 million, the 2,000 pounds of marijuana.
7 Crystal Fyffe was murdered five months later.

8 When Crystal Fyffe was murdered, Robert Ledbetter was in
9 the Franklin County jail. So physically he could have never
10 committed this murder. But the theory is that he hired
11 somebody unknown, hired somebody that hasn't been prosecuted to
12 commit this murder on his behalf. Five months he had been
13 locked up.

14 I also believe that the evidence will show that it's
15 kind of questionable as to whether or not Crystal Fyffe was
16 actually cooperating against Mr. Ledbetter. She was somebody
17 who was asked to speak to authorities in Fairfield County about
18 the Rodriccos Williams murder, the one that Earl Williams will
19 tell you about. And her lawyer is going to testify to you that
20 she was offered immunity; that she was then asked -- she was
21 offered immunity before she even spoke so she could say
22 whatever she wanted to say and not be held responsible for it.

23 She didn't tell Pickerington what they thought she knew
24 which was that supposedly she had picked up some type of
25 clothing from Mr. Ledbetter after Rodriccos Williams was

1 murdered. She didn't tell them that. She didn't tell them
2 that at all.

3 Mr. Palmer, her lawyer, his own notes say that that's
4 what she said and he didn't think they believed her. But
5 that's what she said. So the theory is that Robert Ledbetter
6 had her assassinated from inside of the jail even though she
7 wasn't cooperating against him.

8 Crystal Fyffe also engaged in conduct while
9 Mr. Ledbetter was locked up in jail which is inconsistent with
10 somebody who's afraid of him, inconsistent with somebody who
11 feels that she's about to be terminated. She went to see him.
12 She went to see him with a friend of hers. Went to see him
13 herself in the jail. She wrote him letters. Letters that
14 you'll see. Letters that don't indicate any support whatsoever
15 with the theory that she was cooperating against Robert
16 Ledbetter.

17 The truth of it is and I tell you those things because
18 they're important for you to know in evaluating that case. The
19 other truth is this, though. It's that, you know, sometimes
20 when a tree falls in the forest and nobody is around, people
21 don't know if it makes a noise or not. Follow me? They've got
22 to prove it made a noise. Sometimes you can't.

23 I don't think the evidence will show that Mr. Ledbetter
24 had anything to do with the murder of Crystal Fyffe. What I do
25 know, though, is that the evidence will not support a finding

1 of guilt beyond a reasonable doubt under the evidence which you
2 will hear from that witness chair. Again, no assailant, no
3 ballistics, no gun, no getaway, no how did Ledbetter supposedly
4 set this up?

5 You're going to see little bread crumbs, you're going to
6 see little hints, little clues but Judge Marbley isn't going to
7 ask you if you saw little hints or little clues at the end of
8 this case. He's going to ask you whether or not you've been
9 presented with evidence that you would act and rely upon
10 without hesitation in your most serious of affairs. He's going
11 to ask each and every one of you to individually make that
12 determination. And I submit to you that you won't be presented
13 with that type of evidence. Not in regard to Count 1,
14 racketeering; Count 4, Alan Johnson's murder; Count 9 and 10
15 Rodriccos Williams; Count 29, 30 and 31, Crystal Fyffe; a
16 separate Indictment for Mr. Brumfield.

17 I want you to look into what's presented to you. I want
18 you to look at it objectively and I want you to look at it in a
19 fashion where you really want to determine what the value of
20 that evidence is. If evidence is old and therefore maybe not
21 available, the Judge is never going to tell you it's proof
22 beyond a reasonable doubt when the evidence is old and it's not
23 available. He's going to tell you it's proof beyond a
24 reasonable doubt, period.

25 So if things are not available, that's not something

1 that we hold against Mr. Ledbetter. It's not the fault of
2 these gentlemen at this table but the reality is, if
3 something's gone, it's gone and it can't be speculated. The
4 lack of physical evidence, the lack of quality evidence, the
5 paint of the source of really the primary evidence against
6 Mr. Ledbetter, especially in regard to the homicides is coming
7 from basically the water treatment plant.

8 We'll be presenting this to you and at the close of the
9 evidence I'm going to ask you to find Robert Ledbetter not
10 guilty. And as I sit here and look into your eyes, I want you
11 to understand that I'm telling you that I've looked at this
12 evidence.

13 If the evidence comes out as I anticipate it, you're
14 going to agree with me that Robert Ledbetter has been charged
15 with crimes that he did not commit, that have not been proven
16 beyond a reasonable doubt, period. They are very, very serious
17 crimes which is something that concerns me because serious
18 crimes call out for a remedy. The remedy isn't to convict
19 somebody if the evidence isn't there. The remedy is to base
20 your verdict on the evidence and the nonnegotiable jury
21 instructions that Judge Marbley gives you.

22 Folks, it's going to be hard because there are people
23 who have died. Not at Robert Ledbetter's hands but there are
24 people who have died. And it's not your job to solve the
25 crime. It's your job to determine whether or not these charges

1 have been proven by the type of evidence that warrants a
2 criminal conviction, and that will come from Judge Marbley.

3 If you look at it in that way, you will agree with me
4 that at the close of this case, justice will require a verdict
5 of not guilty. Not guilty of being a member of the Short North
6 Posse Cut Throat Committee; Homicide Squad. Not proven. Not
7 guilty of being involved/participating in Alan Johnson's
8 murder. Not guilty of being involved/participating in
9 Marschell Brumfield's murder. Not guilty, Rodriccos Williams,
10 participating/being involved in his murder. Not guilty in the
11 murder of Crystal Fyffe.

12 Folks, I don't get to talk to you anymore until the end.
13 It's going to be three long months. Please pay attention.
14 Please take your time. I'm going to take mine. Thank you very
15 much.

16 THE COURT: Thank you, Mr. Berndt.

17 MR. BERNDT: Thank you, Your Honor.

18 THE COURT: Mr. Durkin, on behalf of Mr. Harris.

19 MR. DURKIN: Yes, Your Honor.

20 Your Honor, members of the jury, counsel, to the friends
21 and families affected by these tragic events, to the family of
22 Chris Harris. My name is Kevin Durkin and I am one of the
23 people representing Mr. Harris.

24 You've already heard some talk about a conspiracy. Let
25 me tell you there is a conspiracy here. Mr. Berndt, who didn't

1 have to talk last week, had a cold and he gave it to several of
2 us. In fact, I even heard the Judge sneeze earlier today. So
3 I tell you that, one, so that you'll bear with the voice. But
4 also to make the point that Mr. Berndt talked about being
5 selfish.

6 It was certainly selfish of him to give us the cold but
7 at the same time his point was he's here to represent his
8 client and just as we're here to represent Mr. Harris, if he
9 were the only one here, the evidence would be directed to his
10 portion of the case and we just ask you to bear with us when
11 the Court indicates to you that evidence might be offered as to
12 one Defendant but not another. And that's what we're talking
13 about when we're talking about the challenges of a
14 multiple-Defendant case.

15 I've been referred to as Mr. Harris' co-counsel but it
16 would be more accurate to describe me as second chair of the
17 defense team. I've never been second chair. You may have
18 noticed me standing, consulting with other attorneys while the
19 other attorneys were up at the side-bar and, well, honestly
20 that's because I wanted to be up here talking to prospective
21 jurors because of course I thought I could do it the best. But
22 after watching how well Mr. Gatterdam was able to engage you
23 and the other 70 members last week during Mr. Harris' portion
24 of the voir dire, I think we can agree that Chris Harris is in
25 good hands with Kort Gatterdam as the lead counsel.

1 On Thursday, Judge Marbley described opening statement
2 as the lawyers' view of the evidence and a summary of the
3 evidence. Well, I have good news. I won't attempt to express
4 a view or attempt to summarize to you the next three months of
5 evidence. Why? One, you -- I would be trying your patience.

6 But while the defense has reviewed reports and
7 recordings that were prepared by the government and shared with
8 the defense, while we've consulted with our client, while we've
9 employed an investigator to try to talk to some people, some
10 who were willing to talk to us, some who weren't and to find
11 other information in the case, the facts is that we will be
12 hearing this evidence from the stand for the first time as you
13 are.

14 And as either a prosecutor or defense attorney, I've
15 never made it through even a two-day trial without hearing
16 something that I had not heard before the trial from that
17 witness stand. That's simply the nature of somebody taking the
18 oath there.

19 But in exchange for skipping a recitation of the
20 contradictions, the inconsistencies, the unlikely testimony you
21 expect to hear and see during the presentation of evidence, I
22 would like to equip you with a few more of those tools that
23 Mr. Nolder talked to you about in voir dire and that you may
24 choose but aren't required to use in terms of assessing the
25 evidence you will hear and see.

1 Kevin Kelley and Judge Marbley both referred to your use
2 of common sense during voir dire. As was made clear, however,
3 as the Judge described what was at stake here, and certainly as
4 Mr. DeVillers has described to you, there is in no sense
5 anything common about the events that you will sit in judgment
6 of here. For most, your backgrounds do not include sitting a
7 few feet from a person who will describe how they tried to kill
8 a human being, how they raped a human being, how they
9 terrorized human beings, how they murdered another human being.

10 It is the Sixth Commandment, thou shalt not murder.
11 There is no doubt that this is the most important part of the
12 case. Five men are dead because they were murdered. With
13 respect to the charges that Mr. Harris is here for, the
14 government is seeking to hold Mr. Harris directly responsible
15 for the death of four of them, Marcus Peters, Donathan Moon,
16 Rodriccos Williams and Marschell Brumfield, and as an overt act
17 of the conspiracy which Count 1 RICO enterprise that we'll talk
18 about later also, responsible for the death of Alan Johnson.

19 Christopher Harris is not criminally responsible for the
20 death of any of these five men.

21 Because we have been charged with a responsibility of
22 defending Mr. Harris against some of the most serious
23 accusations that became given from the witness stand, there's a
24 possibility for a confusion on your part about how witnesses
25 are treated in the courtroom. Just as attorneys are not

1 permitted to assure you that in their opinion they find a
2 witness truthful, and that we discussed that this morning, at
3 the same time, counsel on either side are not permitted to
4 offer our opinion if we think a witness is untruthful.

5 In fact, both counsel, both sides, are expected to
6 extend equal courtesy to all witnesses. The attorneys are not
7 permitted to indicate their disbelief of any witnesses' answer
8 by any action, inflection or expression. Even the most
9 untruthful or hostile witness will not be shouted at during
10 this trial, will not be ridiculed or otherwise abused in this
11 courtroom. That will not happen. The attorneys, however, will
12 examine each witness firmly and extensively without abuse.

13 These rules exist and Judge Marbley will enforce them
14 because the views of all attorneys here as to credibility and
15 reliability do not matter. You are the judge of the facts.

16 As was talked about in voir dire and discussed during
17 the opening statements you've already heard, there exists no
18 direct line between the five murders and this courtroom.
19 There's no videotape that documents who murdered those five men
20 for you to examine. There's no DNA evidence recovered from a
21 victim's fingernails linking anyone to the murder. We think,
22 instead, that the evidence will show that what you hear and see
23 in this courtroom, the evidence itself has taken a long and
24 tortured journey before it arrived for you to assess.

25 You will be asked to do the heavy lifting. You must

1 assess the evidence presented here and determine if it falls
2 short of proof beyond a reasonable doubt and therefore
3 requiring you, as an individual, to sign a not guilty verdict
4 form.

5 Credibility. Could it have happened? Maybe. Well, for
6 example, to use Judge Marbley's example, it could be raining
7 outside but if you were in the jury assembly room without any
8 windows on the first floor, you wouldn't have a way to
9 independently verify the claim. But this case is about
10 reliability. How reliable is it? An unreliable weather
11 forecast is an inconvenience.

12 The stakes here are much higher. You are called upon to
13 determine if you would rely, for example, on the words of a
14 murderer, rapist, theft, drug dealer or addict as if you needed
15 the truth from them to make the most important decisions in
16 your own affairs.

17 Consider in terms of assessing the evidence the
18 evolution of the evidence itself. Consider the passage of time
19 which has already been referred to beyond the practical
20 considerations that these events took so long ago. There was
21 some evidence that was simply destroyed. It was at -- CPD had
22 it; they've destroyed it.

23 Consider the effect, though, of the effects of time on
24 memory itself, even from people who have nothing to gain from
25 their testimony. Consider the changes of the evidence you hear

1 here that have taken place over time. How many interrogations
2 by patrolmen, local detectives, then more detectives, state
3 prosecutors, federal law enforcement agents, Assistant U.S.
4 Attorneys and the witnesses' own defense attorneys. How many
5 of those have taken place before the witness made it past those
6 courtroom doors to come up here and take an oath?

7 Consider the motivations for what a witness says.
8 Cooperating individuals are under unimaginable pressure with
9 their liberty at stake. Some were threatened with the prospect
10 of death or life without the possibility of parole before they
11 made any statement to law enforcement.

12 You will learn that the fate of those cooperating
13 witnesses does not depend simply on confessing their own
14 misdeeds of expressing remorse. Their liberty and how much of
15 it they stand to lose now depends on providing substantial
16 assistance to the government's criminal investigation.

17 As you will hear from one agent in a recording, and as
18 he put it, as he handed a cooperating witness over to other
19 agents for interrogation, you need to tell them what they want
20 to hear. Or as an agent said to another prospective witness
21 facing serious charges, I know the federal prosecutor and your
22 information needs to wow him. That's before the person says
23 anything.

24 If the prospective witness can't do that, what we talked
25 about, then the government is powerless. They cannot tell the

1 Judge how helpful that person was which is necessary for that
2 shorter prison sentence. How does that -- how does that
3 motivation affect what you hear from the witness stand?

4 Given all these pressures, it's understandable that a
5 cooperating witness might not tell the truth whether the motive
6 to lie is based on a fear of prison, a desire to settle an old
7 grievance, a rationalization that they're simply saying what
8 other people are saying or that the fate of Chris Harris, who
9 is serving a long prison sentence anyway, that it doesn't
10 matter. Or if it matters, it doesn't matter as much as getting
11 back to that person's family. We suggest that's something
12 that, a tool that can be used to assess the evidence you hear.

13 Consider whether the witnesses' accounts have changed in
14 a significant way during this evolution of the evidence.

15 Consider the role of the witnesses who are speaking to you.
16 Some have committed crimes but those crimes have nothing to do
17 with this courtroom, but they do come here with a criminal
18 record. Some were Defendants in this Indictment but are no
19 longer. Some have been cooperating individuals for a long
20 period of time. Some witnesses are direct or indirect victims.

21 The government touched upon the issue of proffers and
22 that offers -- proffers are not merely some off-the-record
23 discussion. They're entered into with contracts between the
24 government and the person talking with a solemn promise to tell
25 the truth under pains of being prosecuted for the failure to do

1 that. And in some cases, we have some indication from proffers
2 or from interviews what people said. But it wasn't off the
3 record. It was always on the record and that's why the agents
4 were there. That's why they reported on it. That's why they
5 made reports or recordings, because those were on the record.

6 In terms of the roles, one of the challenges for what
7 you hear here is that the roles for some witnesses changed. As
8 we talked about and was already referred to, one witness went
9 from a defendant to a cooperating witness, then they weren't
10 being cooperative, then they were cooperative again. Some
11 people were criminal participants and also victims. Some
12 people said they were going to cooperate but ultimately didn't
13 or didn't have the opportunity.

14 A special challenge for you will be assessing the
15 reliability of people, not just who had multiple roles in this
16 case but, for instance, Marcus Peters, who the government
17 alleges was a criminal participant, also a victim. But also a
18 witness from the dead. And you will hear from a number of
19 people who have died violently or of natural causes. You won't
20 hear from them directly but you'll hear from what other people
21 say those people said or maybe even recordings.

22 But there's a special challenge to assessing that kind
23 of evidence from the dead because counsel here, for both sides,
24 won't have the opportunity to ask those people to explain their
25 statements, give the context for those either on direct or

1 cross-examination. That opportunity won't be there. We
2 suggest that's one of those tools that you'll have to use in
3 terms of assessing the evidence.

4 We expect that during the government's case you will
5 hear testimony from -- opinion testimony from someone to talk
6 to you about gangs. In terms of opinion testimony, we're
7 shifting gears here a little bit, we're talking about people
8 who don't have a -- not directly accounting as to what
9 happened. Consider what biases the government experts might
10 have or the defense, if the defense calls them. Is that person
11 here to educate you and let the facts speak for themselves or
12 does that person have an agenda to put people away? Is the
13 opinion witness here to assist you in a search for justice or
14 does that witness see this trial in terms of a fight between
15 the forces of good and the dark side?

16 There's a reference to ballistics. And you will hear
17 from the government's expert talking about the merits of making
18 comparisons of shell casings, bullets, guns. And obviously I
19 haven't heard that testimony yet but I think both -- well, I
20 think that you will learn that, as opposed to a television
21 program, that the kind of immutable fingerprint that we all
22 have, that there isn't something like that on a firearm.

23 If we, if the defense feels, it isn't obligated to, but
24 if it feels that the ballistics expert hasn't properly
25 indicated the limitations of the state of the science, the

1 defense will call a witness. And if we do so, again, we'll ask
2 you to withhold your assessment of the ballistics evidence
3 until you've heard from the defense expert, if the defendant,
4 Mr. Harris, calls one.

5 The same is true in terms of gang opinion testimony and
6 also cell phones.

7 Now, in addition to the murders there is the Count 1,
8 the RICO enterprise. Mr. DeVillers gave you a short history
9 lesson about the Short North Posse. Talked about the first
10 generation and what is particularly disheartening is when you
11 realize he's talking about history and you were there. But the
12 fact is that people as early as 1995, there was some reference
13 to graffiti, gang graffiti that existed back in 1995 and before
14 that. It was out there.

15 Although Mr. DeVillers talked about being put away in
16 the first generation, the fact is that some people were not
17 part of that conspiracy and it took a trial ultimately through
18 the courts to establish that they weren't guilty of being part
19 of a conspiracy.

20 There have been subsequent prosecutions over the years
21 that have been referred to generally as Short North Posse
22 cases. Even Mr. Harris' brother was charged with being part of
23 a criminal gang and wasn't convicted. Mr. Harris denies that
24 the racketeering enterprise described by the government exists;
25 denies he's a member of that enterprise. But Mr. Harris is a

1 convicted criminal.

2 He committed a crime on July 19th, 2008. You're going
3 to hear about it. He was caught by law enforcement within a
4 short time after committing this extremely serious crime.
5 There was no jury trial, no witnesses disappeared. He pled
6 guilty because he was and is still guilty and he is now serving
7 a 17-year sentence for committing that crime.

8 During the course of the trial you're going to hear
9 about what the government believes the purpose of this
10 racketeering enterprise was. We would ask you to carefully
11 consider whether those purposes seem at odds with each other.
12 We expect that the evidence is going to show that the term
13 loose organization is really another word for no organization.
14 No consistent purposes. No code of conduct. No loyalty.

15 You will learn during this trial that Chris Harris and
16 his family, you've already heard this, had numerous contacts
17 with law enforcement when he was both a juvenile and adult.
18 His first recorded encounter with the police was being charged
19 with being delinquent because he rode a bike on a sidewalk.
20 And from there, the relationship with the police went downhill.

21 As an adult in yet another police encounter where Chris
22 Harris met the description of a black man with a gun on
23 July 27, 2007, police stopped him at gunpoint; searched him.
24 After finding nothing, then they did a warrants check.
25 Mr. Harris continued to be upset at being held at gunpoint and

1 when they continued to detain him for checking for an
2 outstanding warrant and when they finally released him, and
3 even before that, he said things he should not have said. But
4 this event takes place long after the accusation that
5 Mr. Harris tried to kill police officers.

6 There was another time Chris was told to move along and
7 he said words that would get you thrown out of a sporting event
8 and he was arrested for disorderly conduct. But when he made
9 these remarks to the police on July 27, 2017 or 2007, Your
10 Honor, I'm sorry, the police didn't arrest him, didn't feel
11 that he was guilty or didn't arrest him for aggravated menacing
12 at that time. Or at any time thereafter.

13 As you listen to the evidence, look at what
14 opportunities the government had to gather evidence before
15 Chris Harris was in prison for the act that he was convicted of
16 in 2008. Assess the evidence or lack of it as gathered by the
17 searches that took place. You heard about that search in
18 opening statement. The one where guns, drugs and money were
19 found and Mr. Harris was in the same house. But what you did
20 not hear is that the person responsible, criminally responsible
21 was arrested and left with the police. Mr. Harris was released
22 after another warrants check to go.

23 Assess the evidence that was gained from paid informants
24 who the police have placed in the neighborhood or took
25 advantage of living in the neighborhood. Look at the evidence

1 that was gathered by police surveillance, even when they didn't
2 stop and search Chris Harris.

3 There was a discussion earlier about snitching. And it
4 is critical to understand that snitching is different than
5 violating the Ninth Commandment that you shall not bear false
6 witness against your neighbor. Not against a stranger but
7 against someone you know. The fact that a witness does it
8 under the threat of a lengthy prison sentence doesn't make it
9 any less wrong.

10 You're going to need to assess the relationships, the
11 associations, the affiliations, the childhood relationships,
12 the family relationships that existed between the people. And
13 as for any outrage that came from either the defendants, their
14 family or friends, we expect the evidence is going to show that
15 that's the outrage against the false accuser.

16 No one can suggest that it is unreasonable for family or
17 friends who believe in their son, their father, brother or
18 friend to be angry about people who bear false witness against
19 their neighbor.

20 In the course of the trial I think of a line that
21 because the government talked about the concept of the homicide
22 for the cash, you've heard about extremely large amounts of
23 money already, and as was said in the Watergate case, follow
24 the money. If there are displays of vast wealth on Mr. Harris'
25 part, you certainly should consider that. If there isn't, you

1 should consider that also.

2 Listen carefully to all the evidence. Keep in mind the
3 presumption of innocence, the government's burden of proof
4 beyond a reasonable doubt. Are you willing to rely and act
5 upon the testimony of the people you hear here getting deals in
6 the most important of your affairs?

7 When all the evidence is in, is it enough? It isn't
8 simply enough to say, well, there's no DNA, there are no
9 fingerprints but that doesn't mean anything.

10 Finally, the parties, the United States of America and
11 these five men, they own this case. You were selected because
12 you don't have a stake in this and that's the genius of the
13 jury system; that you bring the most important -- the
14 consideration that you would use in the most important of your
15 affairs is something that you don't have a stake in. And if
16 you do that, neither side can ask for anything less.

17 Finally, even more finally, I'm glad that Mr. DeVillers
18 broke the wall of using terms that we would not normally hear
19 in a courtroom and certainly we would not say it except that
20 we're quoting. But I have to add another word to this.

21 Certainly emotions run high and we're not attempting to
22 influence the parties. People clearly worked on this matter
23 for a long time. But ultimately I have to take issue with one
24 of the state prosecutors who said, in referring to one of these
25 Defendants, that they were a worthless piece of shit. They're

1 not. And the regard that you bring to this matter proves that.
2 Thank you.

3 THE COURT: Thank you, Mr. Durkin.

4 Ms. Dixon, on behalf of Mr. Liston.

5 MS. DIXON: Yes, sir. Thank you.

6 Ladies and gentlemen, good afternoon. I'm Isabella
7 Dixon and I and Mike Miller represent Rashad Liston. As I
8 talked about in voir dire, we're here for justice. Justice for
9 Rashad.

10 The evidence is going to show you, ladies and gentlemen,
11 and this is important, the evidence is going to show you that
12 Rashad was born in 1989. Rashad is 26 years old. At the
13 beginning of the period of time that the government alleges
14 this so-called conspiracy, enterprise, whatever took place back
15 in 2004, Rashad Liston, in 2004, twelve years ago, was 14 years
16 old.

17 You're going to hear evidence that in December of 2006,
18 Rashad's mother died. She died of Lupus. You're going to hear
19 that evidence, ladies and gentlemen. And you're going to hear
20 that he didn't have a father in his life. You're going to hear
21 that he had two younger siblings, a younger brother and a
22 younger sister. And you're going to hear that he had to take
23 responsibility for their care and for their household. And
24 you're going to hear, as a result of that responsibility,
25 Rashad had to be a man way before he reached the age of

1 majority.

2 You're going to hear Rashad is a graduate of the school
3 of hard knocks, Ph.D. And to that extent, you're going to hear
4 he did commit crimes. He did. He was a low-level drug dealer.
5 He's not going to deny that. He doesn't deny that. That's the
6 only thing he knew how to do to take care of his younger
7 brother and his sister.

8 You're going to hear that Rashad, his mom, they did live
9 in the area referred to as the Short North. That's not his
10 decision. He had no control over that. But that is where he
11 lived. You're going to find that dealing in drugs, being a
12 low-level drug dealer, that's what he learned. That's the only
13 thing that was taught to him in terms of how to survive, how to
14 make money. And he was, in fact, a low-level drug dealer.

15 You're going to hear evidence that whatever wrong Rashad
16 did, he always took responsibility for it. He did not deny it.
17 He will not deny it.

18 You're going to hear that Rashad pled guilty, I want to
19 say around September, 2008, to a manslaughter. He wasn't the
20 person who pulled the trigger. He wasn't the person who did
21 that, who was responsible, but he pled guilty to it because he
22 felt like, based on advice he was given, that's what he should
23 do. And that's what he did. And nobody is going to come in
24 here and tell you he was the triggerman and that he was that
25 person, because he wasn't.

1 You're going to hear evidence that when you grow up the
2 way he did in that neighborhood, when you're doing what you
3 have to do to survive, there is street justice. It does, it
4 does in fact exist. And to that extent, you're not going to
5 hear any evidence that Rashad robbed a bank, that Rashad robbed
6 a store, that Rashad did anything like that.

7 You're going to hear evidence that the only time he
8 robbed, did this, did that to somebody, it was in -- because of
9 they had stolen from him or they had cheated him. Is it right?
10 No, it's not right. And he understands it isn't right. And,
11 again, he took responsibility for it.

12 Ladies and gentlemen, you are also going to hear that
13 Rashad, from pleading guilty to that manslaughter in 2008, he
14 was incarcerated. Still incarcerated for that, as a matter of
15 fact. So he's been locked up since 2008. There was also a
16 period of time in 2006 as a juvenile when he was in DYS for a
17 robbery offense. And that's not going to be disputed.

18 So with respect to these other things, this Count 1,
19 Rashad did not have the time or the luxury to be involved in
20 any type of group gangs, this, that. He didn't. He is a man
21 who had to take care of his household. His brother -- his
22 little brother and his sister. When he was locked up, you'll
23 hear jail calls, they stood by him. They stood by him. And
24 they stand by him today.

25 You're going to hear testimony because Rashad is accused

1 of somehow being responsible for the murder of Marschell
2 Brumfield. You're going to hear testimony from government
3 witnesses. And I'm going to ask you, the same way
4 Mr. DeVillers asked you, listen carefully to that testimony.
5 Listen carefully to that testimony, ladies and gentlemen. I'm
6 not going to repeat or recite for you it's going to say this,
7 going to say that, guess what, you're going to get to hear it
8 for yourself. All I'm asking is that you listen to it
9 carefully.

10 You're going to hear testimony about the murder of
11 Rodriccos Williams. Again, I'm going to ask you, listen to
12 that carefully. Listen to Mr. Earl Williams carefully. Listen
13 carefully to Troy Patterson. Same thing with respect to the
14 homicide of Tyrell Davis.

15 Listen carefully, ladies and gentlemen. Listen very
16 carefully. Because when you listen to the testimony of these
17 folks putting Rashad in something that he was not in, that he
18 was not a part of, justice will require, require, I'm not
19 asking, justice will require you to render a verdict of not
20 guilty with respect to Rashad Liston. Not guilty to Count 1,
21 to being involved in any gang, if it exists, criminal
22 enterprise if you find it exists. He's not in it.

23 Justice will require you, ladies and gentlemen, when
24 you've heard the testimony, when you've looked at exhibits,
25 when you've seen everything, justice will require you, ladies

1 and gentlemen, to return a verdict of not guilty with respect
2 to Rashad Liston in the murder of Marschell Brumfield.

3 Justice will require, ladies and gentlemen. I'm not
4 asking, justice will require you to return a verdict of not
5 guilty with respect to Rashad Liston in the murder of Rodriccos
6 Williams.

7 And finally, ladies and gentlemen, with respect to the
8 murder of Tyrell Davis, justice will require you to return a
9 verdict with respect to Rashad Liston of not guilty.

10 That's four times. Four times, ladies and gentlemen.
11 But justice is going to require you to do that. Thank you.

12 THE COURT: Thank you, Ms. Dixon.

13 MR. MEYERS: Good afternoon, ladies and gentlemen.
14 I'm Greg Meyers. Along with Kirk McVay, I represent Deounte
15 Ussury.

16 As Kirk did the opening, this is my first chance to
17 speak as the afternoon wears on. You'll hear from Mr. Ussury's
18 lawyers every time fourth in line. And many of these themes,
19 as you've learned through voir dire and now as you've learned
20 through openings, many of the themes for these accused men are
21 the same because the rules are the same. The same fundamental
22 rules that you heard the Judge speak of in voir dire. But each
23 individual man accused by the government must be judged on the
24 government's facts on his own feat, on his own case. It's not
25 one for all and all for one.

1 Now, Deounte Ussury, he stands accused of fundamentally
2 four crimes. They're labeled a little different, different
3 numbers of counts but here's what it's about. The government
4 has said Deounte Ussury, you're a member of a gang that's a
5 RICO charge, racketeering and corrupt influence. They have
6 accused Deounte of having a murderous hand in the death of
7 Marcus Peters, in the death of Dante Hill, in the death of
8 Marschell Brumfield.

9 With respect to Count 1, I think one thing that
10 government lawyer DeVillers said, he said the SNP, the Short
11 North Posse, it is the black hole, it kills. It doesn't kill,
12 folks. We'll tussle with our language with respect. We know
13 each other but we are on different sides. It doesn't kill.
14 People kill. The question is, did that man kill? The question
15 is, is that man part of something that satisfies the rigorous
16 legal definition of a racketeering enterprise?

17 I was standing now how many in line, fifth in line. I'm
18 going to try to take Mr. DeVillers' metaphor. As good lawyers,
19 we always risk as we try to take each other's metaphors and see
20 them in a different light. He called the Short North the black
21 hole that craves money, that craves vengeance, it craves street
22 cred. If anybody's dabbled a bit in cosmology or astrophysics,
23 which of course I haven't because if I knew math that well I
24 probably wouldn't be in the job of a lawyer, I might be an
25 astrophysicist. There's something called an event horizon in a

1 black hole. It's not clean, it's not clear. It's not like the
2 four black lines on this here piece of board where you're
3 either in or you're out. We'll grant you that.

4 But what that does not give the government is the right
5 to get sloppy in the definition. And I invite you to attend to
6 the testimony of their own expert. I invite you to attend to
7 the testimony Mr. DeVillers forecast that this is not going to
8 be like the Rotarian Club or the church organization that there
9 is no piece of paper that has an hierarchy, a president, a
10 secretary, a treasurer. Well that's all well and good but what
11 that does not mean is that a man like Mr. Ussury who, this
12 evidence will show, was not born up and raised up in the Short
13 North. He's not part of this here piece of land, this
14 geographical outline.

15 You heard Mr. DeVillers saying, he's correct, there are
16 parts of agreements in this case. No doubt about it. There
17 was a time when Mr. Ussury was affiliated with a gang in a
18 different part of town. That may seem like an odd thing for a
19 defense lawyer to say. You telling me he's a member of a gang?
20 I tell you why that's not odd. 218 is not on trial in this
21 case. Mr. DeVillers accounted in passing he said that gang was
22 laid to rest. Well maybe so, maybe no. There won't be a lot
23 of evidence about that in this here trial, but what counts is
24 this. The government bears the burden of trying to put Deounte
25 Ussury square into Count 1's target of being a member of Short

1 North.

2 You will hear he knows some of these folks. But you're
3 also going to hear this evidence does not squarely connect him
4 with the wall of that black hole as Mr. DeVillers accounted
5 for. You'll hear from their own police officers when they
6 testify about the many documents they've drafted and written to
7 record their work over the near decade encompassed by this case
8 and how many times Deounte Ussury is not pegged as a member of
9 the Short North.

10 Does he know some of them? Well sure he does. No
11 lawyer on either side is going to stand here and say hey, that
12 light's out. It's not out. There's certain fundamental
13 truths, certain factual realities.

14 Skipping ahead to just interrupt my own train of thought
15 such as it is, factual reality is Marcus Peters is dead, Dante
16 Hill is dead, Marschell Brumfield is dead. That's the truth.
17 To that extent, once again, on behalf of Mr. Ussury, we can
18 agree with Attorney DeVillers. Fundamentally what happened may
19 not be the major battleground as you hear this evidence.
20 Whodunit will be.

21 So with respect to Count 1, you have here in this
22 courtroom not a single man accused, certainly not Mr. Ussury.
23 I'll speak for Deounte. He is not a perfect man. This
24 evidence will make that crystal clear. He's no murderer.
25 There no conviction of that. But he's had guns. He's been

1 accused of that. He's pled guilty to that. He's pulled time
2 for that. He's had drugs. He's pled guilty to that and he's
3 pulled time for that. By which I mean he has been in prison.
4 Mr. DeVillers told you, there's a pretty good swath of the
5 period of time wrapped by Count 1, the ten-year distance
6 from '05 to today, roughly, where Deounte was locked up.

7 So is the mere fact that it just so happens that
8 Deounte's convictions, which are encompassed in Count 1, it's
9 going to be a little tricky. I'm not going to belabor it here,
10 this will be a lot clearer, I think, I hope as the case ends.
11 As Mr. DeVillers forecast, to convict any one of these men in
12 Count 1, their evidence is going to have to talk about overt
13 acts. Were they involved? Did certain predicate events occur
14 and did they occur in such a manner as to manifest a
15 willingness to participate in something that equals an
16 enterprise? That was a long sentence.

17 Bottom line is, he's guilty of what he's pled guilty of.
18 It happened in these time frames. We're going to suggest to
19 you, they're not going to muster evidence adequate to prove
20 that places him within that black hole, as Mr. DeVillers calls
21 it, of the Short North Posse.

22 Mr. DeVillers projected that his evidence will show
23 that, among other things, one of those convictions that Deounte
24 has in his past occurred at his trap house on I think it was
25 6th Street. He was arrested at a place on 6th Street. But I

1 think what this evidence is going to show you when their
2 witness Slaughter appears is he's going to claim that's his
3 trap house and that other people, Troy Patterson, Deounte
4 Ussury may have occasion used that place to sell drugs.

5 Deounte pled guilty. That doesn't make it his trap
6 house. That doesn't make the other belongings, the other
7 goods, and they were nasty, ain't nothing about it, but the
8 odds are none of you folks happen to have a bulletproof vest
9 sitting in your front closet at home. There was at least one
10 of those in that house.

11 Mr. DeVillers alluded to it and that's the evidence.
12 That does not mean it's Deounte's. Not by a long shot.

13 So the themes that began when Attorney DeVillers gave
14 his opening statement have been pointed to by every other
15 lawyer now who has stood before you and I'm going to do a bit
16 of the same but in a shorter fashion. And what is that theme?
17 We heard the government say, you're not going to like our
18 witnesses. You won't. Cooperating witnesses, whatever you
19 want to call it, squeal for a deal. As they understand, as we
20 all do in this kind of a case, there's one heck of a risk as to
21 whether or not the words spoken from the mouth of a witness
22 whose agreement to testify has been purchased through the
23 currency of liberty is reliable and credible, and that's what's
24 happening here.

25 And I adopt by references we lawyers sometimes say in

1 writing what Mr. Berndt said about the people put into the
2 place and labeled murderers with respect to Mr. Brumfield,
3 Marschell Brumfield. That case lied fallow until Troy
4 Patterson came forward. Troy Patterson, if I'm remembering
5 right -- lot of names, lot of places -- convicted rapist.
6 Think what he's buying, think what he gets. There are other
7 government witnesses here who were actually paid money to
8 cooperate and feed information to police over time.

9 There's some evidence some of those police officers were
10 not, put it as lightly as Mr. DeVillers said, doing the best
11 cop work. But when it comes to the Marschell Brumfield
12 homicide, the only link there, as Mr. Berndt said about
13 Mr. Ledbetter, is the words of a witness whose testimony was
14 procured in trade to avoid the rest of his life in prison. And
15 you will, I trust, agree with Mr. DeVillers because I'm going
16 to do it right now.

17 I think this evidence is going to teach you that the
18 likes of Alan Wright and E-Dub Earl Williams, contract killers.
19 Admitted. And I think when you hear Mr. Williams testify, what
20 I predict you're going to hear is when Mr. DeVillers forecast
21 or should we say described, he says, the government, by the
22 time we got to Earl Williams, I don't mean to quote here, but
23 you tell me if I'm summarizing it right, by that time Earl
24 Williams had, in effect, traded away two life, a couple of
25 life -- potential life in prison homicides, a felonious

1 assault, maybe another homicide for eight years.

2 I suspect any one of us here in this courtroom, if you
3 had to do eight years that would be one heck of a tag. But
4 it's all relative. And I think when the United States
5 government says, we honored Mr. Williams' agreement with the
6 Ohio prosecutors, they didn't have to. I think what you're
7 going to hear from Mr. Williams, he's going to say, I'm not
8 going to play ball, I'm not going to tell my story if you were
9 going to add more time. Think what that means. Is that
10 trustworthy?

11 And then you get to Mr. Peters. And that case, that's a
12 case where, according to the account we hear from the
13 government this morning, what we would expect their evidence is
14 going to try to prove that there were three bad guys who went
15 to rob another bad guy. Burglarize is really the word for it.
16 Go into a house. It doesn't have to have anybody in it at the
17 time. Your target, you think DeShawn is a drug dealer. So
18 they're rousting the place. They're flipping the joint.

19 Wait until you see the pictures. They've been in there,
20 whoever was in there was in there for a while. Drawers pulled
21 out, mattresses moved around. And then in comes the homeowner,
22 Shawn Smith. He starts coming in.

23 It's dark in there. And by all the forensic evidence --
24 and let me interrupt my flow here for a minute. When we're
25 talking about as Mr. DeVillers invited you to think about, and

1 I want you to do the same, when you're hearing testimony from
2 cooperating witnesses and you were asking the question and the
3 government invites you to answer the question, is it
4 corroborated, the answer lies in some of these cases in
5 hard-core physical evidence. It either is or it ain't the way
6 that cooperating witness has said it went down.

7 So what do we have? Somebody's coming in the house.
8 Peters, by where his body fell, physical evidence, with a gun
9 by his side and a phone with him and the angle is shot, he
10 shoots out that door. It skips across and it goes across a
11 little sidewalk lawn area across into another apartment. And
12 apparently, due to the forensic evidence, there are indications
13 that two other weapons were fired from behind Marcus Peters.
14 And the coroner will tell you he took a shot to the back. So
15 he fell dead apparently by bullets being fired in the frantic
16 chaos of the Keystone cop-type moment where people in the back
17 thought somebody was coming in and they fired.

18 So we know there are forensic findings, there are shell
19 casings at that scene. The government, apparently by their
20 opening, is going to try to connect them to Mr. Harris. That's
21 his lawyer's job. There is no forensic finding that connects
22 Deounte Ussury to that.

23 I'll tell you what else they have, though. You heard
24 some of this from the government. We see it coming. It's
25 there to be had. There are cell phones in the world. Some of

1 you have traveled from a distance to come to this courthouse
2 and several days in a row. If you're making phone calls, some
3 50, 100 miles away from your home base, you are in fact pinging
4 along different cell phone towers. In a city, you see them all
5 over the place. That's, again, the law of physics. That's
6 radio waves bouncing off a cell tower.

7 Does that evidence circumstantially suggest that a phone
8 that is linked to Deounte Ussury was in the area, geographic
9 area of the Marcus Peters homicide? Yeah, sure it does. Sure
10 it does. Circumstantial evidence. And you'll see a real fine
11 presentation by Agent Moledor, a man well-versed in the science
12 of cell towers and azimuths and angles and distances. But the
13 best he can tell you is, number one, I fixed my focus on the
14 night Marcus Peters fell dead and I find circumstantial
15 evidence that a phone associated with Mr. Ussury was in the
16 area.

17 What he'll also tell you, we trust, is because he had
18 available to him all these call detail records is that Deounte
19 Ussury, who had a girlfriend up in that part of town who
20 originally grew up over here on the east side, who knows who
21 people in the Short North, his phone is pinging off these
22 towers regularly. Regularly. Therefore, does that tip the
23 scale of beyond a reasonable doubt to you? That will be among
24 the decisions you're going to have to make.

25 You've heard some of the other lawyers talking about all

1 the different data, the information that is exchanged in the
2 modern American justice system. We've talked. We've seen
3 many, many thousands of pages of records. I agree with
4 Mr. Durkin. The odds are both sides will hear a little
5 surprise now and again.

6 But I mention that because Mr. DeVillers used the word
7 in his opening that I think is the way I've probably done five
8 times already, it's sort of a word comes in and maybe you don't
9 really mean it but one thing I do know, I think I know, this
10 evidence will not, through cell tower technology, provide you
11 triangulation. If anybody's got a science background,
12 triangulation is a term of art I think Mr. Moledor will tell
13 you, Agent Moledor, would mean that I simultaneously picked up
14 a radio broadcast from two or more places and I could
15 triangulate.

16 The next generation and the time frame we've all lived
17 scientifically is GPS. And certainly I agree with
18 Mr. DeVillers, we have no GPS up. I don't mean to belabor it
19 except to say take care of aware. It is but one example of how
20 we lawyers strive mightily to be accurate, but ultimately it is
21 the witnesses and their testimony that will teach you facts you
22 need to have to decide. But there will not be triangulation.

23 We come to Dante Hill. Dante Hill was a case that, like
24 all the others you've heard talk of, lay fallow for years. It
25 was not solved. Who is the lead witness there? Tabib

1 Broomfield. Goes by Tabi on the street. You heard
2 Mr. DeVillers talking about him. You'll hear a whole lot from
3 Tabib.

4 I will not pretend to take the time to recount
5 everything I expect the evidence to show. What I want to do
6 for the last few minutes I'm on my feet today is talk about
7 aspects of Tabib Broomfield that relate directly to him and are
8 similar if not on all fours in kind with the other cooperating
9 witnesses. What do I mean by that?

10 You heard Mr. DeVillers tell you that now as the
11 government stands here thinking they put their pieces of the
12 puzzle together for Dante Hill, he says Tabib Broomfield is
13 equally culpable for the death of Dante Hill in their theory.
14 Their theory being what? Tabib called Deounte, roll on over,
15 serve the customer, customer gets robbed and killed instead of
16 served up the kush of marijuana.

17 Tabib was never tagged with that. Tabib is on the
18 streets now living in freedom. Tabib was interviewed two times
19 the night this occurred. Once around the 1:00 a.m. hour out on
20 the streets near where the poor young man's body was found and
21 once about three hours later, about 4:25 in the morning in the
22 Columbus Police Department with a video camera rolling. And
23 Tabib Broomfield, who has been a cooperating witness with the
24 government, he's been giving them little pieces of information
25 for maybe ten years who one time years before says, quite

1 proudly, I'm a hustler, to the law man. Indeed he is. And
2 you'll see us cross-examine him depending on how it comes out
3 on their direct.

4 But at 4:30 in the morning and starting there from I
5 forget how long, maybe it's an hour long, Mr. Broomfield, with
6 great passion, with the apparent demeanor and presence now
7 recorded forever of a human being telling what he claims to be
8 the truth, all worried he said, maybe they were coming to me.
9 When you listen to how he talks, if that's all you saw you'd
10 say my God, there's a truth teller. If I took the tools that I
11 used to analyze credibility in my normal daily affair I'd say
12 look at his mannerism, listen to his tone of voice. Oh, man,
13 good thing he didn't die that night. He must have been scared.

14 He was lying. How do I know he's lying? How will you
15 know? Because some years later he told an entirely different
16 story. That's happened with some of these other key operating
17 witnesses.

18 Now, in your daily affairs, if one human being on day
19 one tells you version A, on day two tells you version Z, the
20 only thing you really know is both those versions can't be true
21 so you've got a liar in front of you. That's Tabib Broomfield.

22 And it's not only him. Troy Patterson, Anthony Jones,
23 Paco, Paco Brown. People here whose agreement to talk to you
24 folks under oath whose paperwork they signed saying, I'll tell
25 the truth, you ultimately will decide that. Because what they

1 got back is they got back the option, the viable option of not
2 living out their days dying in the cage of a government prison.
3 Because that's what those prison -- that's what most of them
4 were facing is life in prison.

5 Dante Hill, that case also has a few cell phone pings
6 and some cell phone connections between Deounte and Broomfield.
7 As occurred on many other days around that time frame. Just
8 like Mr. Hill would be on the phone with Mr. Broomfield.

9 There ain't no doubt that there are some circumstances
10 here that place Deounte in at least sort of the company. He
11 knew Tabib. He'd been on the phone with Tabib. They may well
12 have robbed a Jamaican drug dealer together. That case isn't
13 before us in this court of law.

14 MR. DEVILLERS: Objection, Your Honor.

15 THE COURT: Sustained. The jury is instructed to
16 disregard Mr. Meyers' last statement. Please continue.

17 MR. MEYERS: Your Honor, can we approach real quick?

18 THE COURT: Sure.

19 MR. MEYERS: Make a clarification.

20 (Thereupon, the following proceeding was held at side-bar.)

21 MR. MEYERS: Is it in the Indictment?

22 MR. DEVILLERS: No. It's --

23 MR. MEYERS: That's my problem. It is in the phone
24 call.

25 THE COURT: Talk to me. Go ahead. I tell you what.

1 Go ahead, Mr. DeVillers.

2 MR. DEVILLERS: We are alleging that it's in predicate
3 to within the time frame. It's part of the Indictment.

4 MR. MEYERS: Okay. I'll take that right back.

5 MR. DEVILLERS: Thank you, Judge.

6 MR. BERNDT: Your Honor, I've been watching number 7
7 and number 11 and I think that --

8 THE COURT: Mr. Kelley.

9 MR. BERNDT: But, Your Honor, he's going to have to do
10 double duty because eleven hasn't heard a word that Mr. Meyers
11 said. The African-American in the middle row.

12 THE COURT: I watched 11. Eleven just has his head
13 down. Eleven is not asleep.

14 MR. MEYERS: I've been trying to project to seven and
15 it's not working.

16 THE COURT: Let's go back on the record.

17 MR. MEYERS: I'm going to make sure that they know
18 that the Jamaican drug robbery which is referenced in the phone
19 call which you've talked about --

20 THE COURT: Yes.

21 MR. MEYERS: -- is part of this because it's an
22 unindicted overt act and I blew it. I'll just tell them I blew
23 it. And then I'm almost done.

24 THE COURT: So then we have, how much more do you
25 have?

1 MR. MEYERS: About three, five minutes most. I was
2 winding it down.

3 THE COURT: And you, Mr. Nolder, how long is yours,
4 Mr. Nolder?

5 MR. NOLDER: Half hour.

6 THE COURT: Could have finished sooner than we
7 thought. I didn't ask you to, I didn't ask you to because we
8 all projected that we would go beyond it but now we're going to
9 have like an hour or maybe an hour and a half to spare. You
10 don't have anybody?

11 MR. DEVILLERS: I don't, Your Honor.

12 THE COURT: Okay. That's all right.

13 MR. MEYERS: You want me to go for another hour?

14 THE COURT: If you like.

15 MR. MEYERS: If I could be courteous to the Court.

16 THE COURT: We'll be fine. We'll be fine either way.
17 Okay.

18 (The following proceedings were had in open court.)

19 THE COURT: Mr. Meyers, please continue.

20 MR. MEYERS: Thanks, Judge.

21 Ladies and gentlemen, I made a mistake. My phrase was,
22 it's not in this Indictment. And the mistake is this: That of
23 the many events that the government has identified as maybe
24 tending to show an association of members under the broad
25 chapter heading overt acts and Mr. DeVillers talked about many

1 of them this morning. Some are printed in the Indictment.
2 Those are indicted overt acts and some are unindicted overt
3 acts. So it may be that the government will be presenting the
4 notion that if in fact Mr. Ussury and Mr. Tabib Broomfield
5 orchestrated a robbery of marijuana from Jamaicans, that they
6 may suggest to you that that is an unindicted overt act. So be
7 it.

8 I don't believe this evidence is going to indicate to
9 you that they are going to suggest to you that Mr. Broomfield,
10 Tabib, is a member of the Short North. But we'll find out.
11 What I do to tend to you, this evidence will demonstrate
12 clearly, out of Tabib's mouth himself through competing,
13 contradictory, detailed accounts of the same event that they
14 both cannot be true and he therefore can be neither credible
15 nor reliable.

16 And that's it. None of us here today, as some others
17 have said, can possibly forecast in detail eight or ten weeks
18 of testimony. I simply ask that you pay close attention as I
19 know you will and on Mr. Ussury's behalf suggest that when this
20 case is over, the proper verdict will be not guilty for all the
21 counts he's accused of. Thank you.

22 THE COURT: Thank you, Mr. Meyers.

23 Ladies and gentlemen, does anyone need a break before we
24 hear from Mr. Nolder? If you're okay, we can proceed.

25 Mr. Nolder, on behalf of Mr. Robinson, please proceed.

1 MR. NOLDER: Thank you.

2 May it please the Court, ladies and gentlemen of the
3 jury. This is the phase of the case known as opening
4 statements, as you all well know. You've heard from lawyers
5 all day. And opening statements, they give us an opportunity
6 to tell you what this case is all about, what this case will
7 prove, but just as importantly what it won't prove.

8 As I told you in voir dire, one of the big challenges
9 you're going to have in this case is it's a multi-Defendant
10 case. And I suggested that each and every one of you should
11 create an evidentiary box for each of the defendants. Because
12 you're going to hear a lot of testimony that may be relevant to
13 one Defendant but not to the other in determining that
14 Defendant's guilt and innocence and not the other. So I would
15 suggest that you try that and try to make sense out of the
16 testimony in that way.

17 I want to start off by saying what this case is not
18 about as it relates to Clifford Robinson. This case, as it
19 relates to Clifford Robinson, is not about his membership in or
20 the existence of the Short North Posse. Grand Jury didn't
21 charge him with that.

22 This case, for Clifford Robinson, is not about the
23 existence of the Homicide Squad or his membership in that.
24 Didn't charge him with that either.

25 This case is not about the existence of the Cut Throat

1 Committee or his membership in that. Didn't charge him with
2 that either.

3 Instead, what the Grand Jury charged him with is one
4 discreet day and time. It's August 19th, 2007. Count 1 spans
5 ten years. Counts 5 and 6 where Clifford is charged,
6 August 19th, 2007.

7 But to give August 19th, 2007 meaning, to give it
8 context, you have to rewind the tape two days. Mr. DeVillers
9 told you in his opening statement is one day but it's actually
10 two days. Because this event happens in Pataskala, Ohio at the
11 home of Gregory Cunningham. He lives on a street called
12 Ashcraft Drive.

13 Mr. Cunningham, he hosted a bachelor party that night,
14 August 17, 2007, for a person by the name of Justin Russell.
15 It was quite a bachelor party. Mr. DeVillers said upwards of
16 100 people were there. Probably were. Mr. Cunningham hired 13
17 strippers to work this party. And his basement was modified to
18 mimic a strip club. You'll see pictures of it. You heard
19 descriptions of it. There were mirrors all over the wall, the
20 ceiling, the disco ball, place for a DJ, place for a bar, poles
21 for the girls to dance on.

22 And this party went until well into the wee hours of the
23 morning on the 18th, Saturday morning. It broke up about 5:00
24 or 6:00 in the morning and most of the people left. They'd
25 been there all night. Not everyone did, though. Because

1 you're going to hear that Mr. Cunningham stayed. It's his
2 house. He crashed. Mr. Russell and a friend of his, they
3 stayed, they crashed. Three strippers from Covington,
4 Kentucky, they stayed. A stripper from Dayton, Ohio, Cleo
5 Steele, she stayed, and Donathan Moon and his girlfriend Amanda
6 Robinson, they stayed, too.

7 So everyone crashed. It was a big event. They slept
8 until the middle to maybe early part of the afternoon. And at
9 that time Mr. Cunningham takes the strippers from Covington,
10 Kentucky, which is right across the river from Cincinnati, he
11 takes them home. And on his way back to Pataskala, because he
12 returns home, on his way back to Pataskala, he stops in
13 Cincinnati because his girlfriend, Shenee Jones, she lives in
14 Cincinnati. And he picks her up. And he picks her twin sister
15 up, too, Renee.

16 So they make it back to Pataskala eight, nine o'clock at
17 night. Still we're on the 18th of August, 2007, Saturday, and
18 they arrive home.

19 Not many people are left at the house at that point.
20 Everyone had gone home, as they said. And people were tired,
21 not doing a whole lot. You'll hear that Cleo Steele, she's the
22 stripper from Dayton, Ohio, she goes to a club that night to
23 perform. But other than that, people are making food, they're
24 playing video games, you'll hear a lot testimony about
25 Cunningham and Moon playing video games. Again, not much is

1 happening.

2 You'll hear that Cleo Steele gets home from the strip
3 club performance at roughly 1:30, 1:45 in the morning. And
4 again, eating food, talking with people that are there. And it
5 all changes about 2:30 in the morning. Now we're on the 19th.
6 Again we're on Sunday morning, the 19th of August.

7 You're going to hear that on Sunday morning, the 19th of
8 August, three men break into this house, kick the door in. Two
9 of them have weapons and they're looking for money.

10 They go room to room. And in one of the rooms they
11 encounter Donathan Moon. And he's at the foot of the bed. And
12 you'll see pictures of it. He's at the foot of a bed and he's
13 begging for his life. And one of the individuals who has a
14 silver gun shoots him cold blood. Kills him on the spot for no
15 good reason at all. Because he saw that person's face. And
16 that causes people to start jumping out of the windows. I
17 mean, they're trying to get the heck out of there. They're
18 going to a neighbor's house. 911 is called. And you're going
19 to hear Pataskala is in Licking County. A person by the name
20 of Detective Chris Barbuto, B-A-R-B-U-T-O, he's with the
21 Licking County Sheriff's Office and he responds. This is his
22 case. The August 19, 2007 event, that is his case to solve.

23 So he interviews everyone in the house. No one can make
24 an identification of who came in. He goes and interviews
25 neighbors. Same. And so after that day, the trail goes cold,

1 but only for a couple of weeks. Because you're going to hear
2 that in September of 2007 in the western part of Ohio that
3 there's a traffic stop and the traffic stop yields two
4 individuals, Ryan Powell and Terrence White and they're in
5 possession of a gun that is very similar to one of the guns
6 used in that home invasion robbery gone bad at Cunningham's
7 house. It's an assault rifle.

8 So that weapon is taken to BCI, Bureau of Criminal
9 Identification, tested to see if it matches any of the physical
10 evidence left at that crime scene. And the fingerprints of
11 Powell and White are also taken to see if they match any of the
12 physical evidence taken at the crime scene. And they don't.
13 So now the trail goes real cold.

14 You're going to hear that nothing at all significant
15 happens in this case for almost four and a half years. And in
16 December of 2011 you're going to hear that Detective Barbuto
17 gets a tip, a break. And that tip or break that he gets is in
18 the form of information that a fellow by the name of David who
19 attends Columbus State might have been the getaway driver. So
20 he does some old-fashioned police work. He goes to Columbus
21 State and figures out that this David has to be David Hurt.

22 So what Barbuto does is he makes an approach to
23 Mr. Hurt. It's in February of 2012. Knocks on his door, not
24 knowing whether he would talk to him or not, and he proceeds to
25 tell him why he's here, Barbuto does. And Hurt sits down with

1 him and tells him, I was the getaway driver. Hurt proceeds to
2 tell him there were two cars used in this. My car, which I
3 drove, and also Rastaman Wilson's mother's car was used.

4 So then Mr. Hurt is asked to set the table as far as who
5 was in his car. Well, Mr. Hurt tells Detective Barbuto on that
6 first encounter that Rastaman Wilson was riding shotgun. By
7 shotgun, he means front passenger side of his car. And a
8 fellow that he knew as Tink was sitting in the back seat. He
9 later changes that and puts Rastaman Wilson driving his
10 mother's car. But you'll hear that he was interviewed three or
11 four times subsequent to this and he is resolute during this
12 entire time that there were two cars used. And he's also
13 resolute from this point forward that this person that he knows
14 as Tink is sitting in the shotgun part of his car, front
15 passenger seat.

16 So Detective Barbuto says, what can you tell me about
17 Tink? And Hurt says, he's the wild card. His word, wild card.
18 But here's what I can tell you about him. He's a tall guy,
19 gangly, caramel complected. I can identify him by his ears. I
20 can identify him by his ears. He's funny and we've chilled a
21 couple of times. Chilled meaning spent some time together in a
22 social setting. He even says that he's been drinking at Tink's
23 mother's house several times. So in short, he's telling
24 Detective Barbuto, I know who Tink is. Barbuto says, get me
25 that Tink.

1 So what happens is Hurt has told Barbuto the general
2 neighborhood where Tink's mother lives. He's told Barbuto the
3 general description of this person he knows as Tink. And so
4 Detective Barbuto queries some law enforcement databases and he
5 gets some general descriptions of people living in these
6 neighborhoods that match this identification that Hurt has made
7 of this Tink fellow and he sends him some pictures. And he
8 looks at all the pictures, this Hurt, and he doesn't make an
9 identification.

10 Time marches on. I think we're in roughly May or June
11 of 2012 at this point and Columbus Police come up with
12 information that my client, Clifford Robinson, has used the
13 nickname Tink. And so Barbuto approaches Clifford. He goes
14 and talks to him. And he asks him, he's under no obligation to
15 answer his questions but he asks him, have you ever used the
16 nickname Tink? Yes. Do you know an individual named Rastaman
17 Wilson? Yes.

18 And so at that point, Detective Barbuto does again good
19 police work and as Mr. DeVillers said, he puts together a
20 photographic array. An array is, as Mr. DeVillers said, it's a
21 collection of six photographs and you have a suspect and you
22 would select five other individuals with similar
23 characteristics and put them in an array in no particular
24 order. And this array would be given to a detective who knows
25 nothing about the case. That way he cannot guide the

1 identification process whatsoever. And that's what happens
2 here.

3 So a detective that knows nothing about this case is
4 given this photographic array and he approaches Hurt. And
5 Hurt's given as much time or as little time as he needs. He's
6 under no pressure to make a selection quickly or belabor the
7 point and he looks at this photographic array.

8 Mr. DeVillers said, well, there's no way anyone could
9 make that identification. You're going to see it. The point
10 of the matter is that he did not select my client, Clifford
11 Robinson, as the Tink. And that's a poignant moment in this
12 investigation because the government's trying to build this
13 inferential bridge between Clifford Robinson and this Tink
14 fellow that Mr. Hurt has identified. And they didn't.

15 So that's what the case is about. This case will not
16 involve an eyewitness coming in and pointing the finger saying
17 Clifford Robinson was involved. This case will not involve
18 fingerprints, DNA, physical evidence saying that Clifford
19 Robinson was at the scene. And it bears mentioning and
20 reminding that David Hurt, David Hurt knew this Tink. He
21 chilled with him. He'd been to his mother's house drinking.
22 He could identify him by his ears. He knew general physical
23 description. David Hurt rode from the Short North to Pataskala
24 both ways with this individual seated in the shotgun position
25 of his car and he couldn't identify anybody in that array as

1 that individual when given that opportunity.

2 You've heard this definition, very difficult definition
3 to understand about reasonable doubt. You're going to hear it
4 from Judge Marbley, too. He's the oracle of the law, not me.
5 But I'll talk as a lawyer for just a minute. And reasonable
6 doubt is a doubt based on reason and common sense. That really
7 doesn't help you a whole lot, does it?

8 But if you are unable to act unhesitatingly in the most
9 important of your own affairs, whatever is important to you in
10 making a decision that's important in your own life on the
11 government's evidence then that's a reasonable doubt.

12 I submit to you, ladies and gentlemen, when all the
13 evidence is in, when you've heard closing arguments, I'm going
14 to ask you to find Clifford Robinson not guilty of the offense
15 that occurred on August 19th, 2007. Thank you.

16 THE COURT: Thank you, Mr. Nolder.

17 Ladies and gentlemen, that concludes our opening
18 statements for today. We are going to adjourn for today
19 because I didn't -- when we met and we talked about today and
20 as I did my calculations, it appeared that we would complete
21 our opening statements at or around 5:00. Well, you can see
22 how far I was off in my calculations. Based on those
23 calculations, I indicated to the government that it was going
24 to be unnecessary for them to call a witness today because we
25 weren't going to be able to get started. So they didn't bring

1 their witness because I didn't tell them to. And so it's my
2 bad addition that leave us with an hour and a half to fill that
3 we won't be able to fill today.

4 So we will just begin tomorrow morning at nine o'clock
5 with the government's case in chief. Please accept my sincere
6 apologies for an hour and a half gap today, ladies and
7 gentlemen. I promise to do better at math over the course of
8 the next couple of months.

9 Ladies and gentlemen, have a safe trip home. Look
10 forward to seeing everyone tomorrow. Remember the Court's
11 admonitions. Travel well.

12 (Jury out at 3:23 p.m.)

13 THE COURT: We actually have a few matters that we can
14 take up at this time because Mr. Harris, for instance, made a
15 motion for the exclusion of witnesses. I believe it's been
16 fully briefed. I believe the government has responded and I
17 didn't know whether either side felt constrained to be heard on
18 it. Now that we have the luxury of time, if either Mr. Durkin
19 or Mr. Gatterdam needs to be heard, I'll hear you. I'm
20 assuming that the other defense counsel join in the motion.

21 MR. BERNDT: That would be accurate for Mr. Ledbetter.

22 MR. MCVAY: Yes.

23 MR. NOLDER: Yes.

24 MS. DIXON: That's accurate, Your Honor.

25 THE COURT: Mr. DeVillers.

1 MR. DEVILLERS: We don't need to be heard.

2 THE COURT: After looking at it, I'm going to grant it
3 in part and deny it in part. I'm going to grant it to the
4 extent that it does not include crime victim witnesses because
5 of the Crime Victim Rights Act we cannot exclude, I think there
6 was just one witness and that was Ms. Eileen Fyffe who is the
7 decedent Crystal Fyffe's mother. And pursuant to the Crime
8 Victims Rights Act, the Court cannot exclude her. So she will
9 be allowed to sit through the testimony.

10 The other witnesses to whom it would apply, and I don't
11 think that the defense had objected to it, is the government's
12 expert. Expert witnesses are also exempt, typically, from a
13 motion to exclude pursuant to Rule 702 because they have to
14 hear the testimony in order to be able to give their expert
15 opinion.

16 But I am going to sustain Mr. Harris' motion as it
17 relates to all other witnesses except, of course, party
18 witnesses. And so FBI Agent Lauber will be permitted, of
19 course, to sit through the entire case as he's the client
20 representative. But the remainder, so we have Ms. Fyffe, FBI
21 Agent Lauber and the government's expert or opinion witness.
22 But those three will be the only exceptions. All other
23 witnesses on both sides will be excluded until after they have
24 testified and on the representation by the parties that that
25 particular witness will not be called in anyone's case in chief

1 or in rebuttal by the government.

2 Now, I have another issue that was brought to the
3 Court's attention about witness X and there's a possible Brady
4 disclosure. I think it was at the end of last week, maybe
5 Thursday or Friday, the government provided the Court with a
6 summary with the 312 involving a witness because counsel for
7 the government couldn't determine whether his view there was
8 exculpatory information in it.

9 The Court read it and the last paragraph of the 312
10 contained what could be construed in the Court's view as
11 exculpatory information. And so I find that that last
12 paragraph, Mr. DeVillers, paragraph 20 is exculpatory and
13 should be provided.

14 This is a bit premature but it was filed by counsel for
15 Mr. Harris, a proposed limiting instruction for playing jail
16 calls. Maybe it's not premature. Maybe your first witness
17 tomorrow, Mr. DeVillers or Mr. Kelley, Mr. Martinez, will deal
18 with, testify about or will listen to some jail calls. There
19 was a limiting instruction that was submitted. I don't know
20 whether -- I'm assuming that all counsel for the defense have
21 seen it. I don't know. Have you seen it, Mr. --

22 MR. DEVILLERS: We have, Your Honor. We think it's
23 fine.

24 THE COURT: Okay. And I will read it into the record
25 to make sure that this is the instruction to which all counsel

1 agree.

2 Ladies and gentlemen of the jury, throughout this trial
3 there will be telephone calls played and admitted into evidence
4 that involved the defendants while they were being detained in
5 either jail or a prison. The fact that the defendants were
6 being detained at the time the respective call was made shall
7 not be used by you in any way to infer guilt on any of the
8 charges pending in the Indictment. I think we should probably
9 say Superseding Indictment since it's technically what we have.
10 No inference should be made as to whether the person stands
11 accused or convicted of a crime.

12 Would it be better to say instead of the fact that the
13 defendants were being detained at the time the respective call
14 was made shall not be used by you to in any way infer guilt on
15 any of the charges pending in the Indictment or should we say
16 pending in this case? Because we're going to talk about the
17 Indictment less. I don't send the Indictment back but we do
18 talk about charges pending in this case. So as a wordsmithing
19 matter, it would seem that instead of referring to the
20 Indictment I should just refer to the case unless there's some
21 objection to that.

22 MR. DURDEN: No objection.

23 MR. GATTERDAM: No objection.

24 MR. DEVILLERS: No objection.

25 MS. DIXON: No objection, Your Honor.

1 MR. MEYERS: No objection.

2 MR. NOLDER: No objection, Your Honor.

3 THE COURT: I'll say pending in this case.

4 Mr. DeVillers, are there any other matters we need to
5 take up from the government before we adjourn for the day?

6 MR. DEVILLERS: Just a clarification. We can provide
7 witness X's paragraph 20 to the defense counsel. But is it
8 fine not to disclose who witness X is at this time?

9 THE COURT: Yes. Yes. It is fine not to.

10 MR. DEVILLERS: Thank you.

11 THE COURT: Anything from the defense, Mr. Berndt?

12 MR. BERNDT: Not on behalf of Mr. Ledbetter, Your
13 Honor. Thank you.

14 THE COURT: Mr. Durkin, anything on behalf of the
15 defense?

16 MR. DURKIN: No, Your Honor. Thank you.

17 THE COURT: Ms. Dixon?

18 MS. DIXON: Just for clarification. So tomorrow when
19 we have your expert and Allen Wright, in that order?

20 MR. DEVILLERS: Allen Wright and then the expert.

21 MS. DIXON: Thank you.

22 THE COURT: Thank you, Ms. Dixon.

23 Mr. Meyers?

24 MR. MEYERS: Maybe just housekeeping. Mr. DeVillers,
25 could we perhaps by e-mail get that one paragraph tonight in

1 the event it bears on the work with Mr. Wright tomorrow?

2 MR. DEVILLERS: I think we can. I'm not sure it does.

3 MR. MEYERS: I don't know what's in it. Just to air
4 on the side.

5 THE COURT: Mr. Nolder, anything?

6 MR. NOLDER: I guess I would echo Mr. Meyers' concern
7 about this paragraph not knowing what it is. And not knowing,
8 I think we need to get it sooner than later because I don't
9 know if it bears on opening statements or not. Should we have
10 had it before opening? That's something that bothers me a
11 little bit.

12 THE COURT: Well, I don't think that it does but I
13 will ask -- I don't purport to know this case as well as either
14 the government or the defense does so I will -- it's 3:30 now.
15 It's a very short, it's really it's a three-sentence paragraph.
16 It's a two -- it's a three-sentence paragraph. So it's pretty
17 short. So I'll add, it's 3:30 now. I'll ask that you get it
18 to them by e-mail by 4:30, Mr. DeVillers. If there are issues
19 that you wish to raise with respect to it, any counsel for the
20 defense, we can discuss it at 8:30 in the morning.

21 MR. NOLDER: Thank you very much, Your Honor.

22 THE COURT: So is there anything else now?

23 MR. NOLDER: No, sir.

24 MR. DEVILLERS: Your Honor, just I'll e-mail them the
25 witness we intend tomorrow but it would be Mr. Wright, the

1 expert, Detective Caffey and then patrolmen Haley and Robison
2 if we have time. And I also intend to play at least one phone
3 call and --

4 THE COURT: So is it the consensus of all counsel that
5 before the phone call is played I give the limiting instruction
6 or would it be after?

7 MR. NOLDER: I would say before.

8 THE COURT: All right. Done.

9 Mr. Berndt.

10 MR. BERNDT: Just, Dave, the names of the officers.

11 MR. DEVILLERS: Officer Robison and Haley.

12 MR. BERNDT: Thank you. Thank you, Your Honor.

13 THE COURT: All right. Thank you very much, everyone.

14 (The proceedings were adjourned at 3:34 p.m.)

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1 C E R T I F I C A T E

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3 We, Shawna J. Evans, Denise N. Errett, Lahana DuFour,
4 do hereby certify that the foregoing is a true and correct
5 transcript of the proceedings before the Honorable Algenon L.
6 Marbley, Judge, in the United States District Court, Southern
7 District of Ohio, Eastern Division, on the date indicated,
8 reported by us in shorthand and transcribed by us or under our
9 supervision.

10

11

12 s/Shawna J. Evans
Shawna J. Evans, RMR
Official Federal Court Reporter

13

14

15 s/Denise N. Errett
Denise N. Errett, RMR CRR
Official Federal Court Reporter

16

17

18 s/Lahana DuFour
Lahana DuFour, RMR, CRR
Official Federal Court Reporter

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22 April 11, 2016

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